

MEMO

TO: Michelle Metteer, Manager

DATE: May 17, 2024

FROM: James Mann, Financial Analyst

RE: Comments on Battle Mountain Metro Districts Financials / Review of White Bear Ankele Correspondence dated April 15, 2024

Council requested that I provide comments on the financial information contained in the draft service plan for the proposed Battle Mountain metropolitan districts 1-4 and to review the correspondence from District attorneys White Bear Ankele which was submitted to Council. Because metropolitan district debt cannot legally attach to the Town (creating direct liability), my review is focused on (a) the statutory requirements for the Council to approve the districts, and (b) impacts to future owners of property within the metropolitan districts and those issues which may end up in the Council chambers due to citizen frustrations.

In looking at the overall plan for the creation of a metropolitan district, which as you know is a financing tool commonly used throughout Colorado to assist in fostering economic development, a review is based on a wide variety of inputs with the goal of ensuring that an approving governing body can affirmatively state that (Title 32-1-203(2)):-

- a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.
- b) The existing services in the area to be served by the proposed special district is inadequate for present and projected growth.
- c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.
- d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Once the proponent has presented its information, the Town is compelled to make a determination on the above four statements and can either approve, disapprove, or to conditionally approve the service plan subject to the submission of information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan (Title 32-1-204.5).

The Battle Mountain draft service plan does not contain detailed information to affirmatively make the above statements. The service plan contains general categories of infrastructure (and estimated costs values) that is anticipated to be constructed as part of the development. Typically, there would be more mature development plans available to review, including preliminary engineering or architectural survey showing how the proposed services are to be

Michelle Metteer, Town Manager

Response to White Bear Ankele Correspondence dated April 15, 2024

May 17, 2024

Page 2

provide (Title 32-1-202(1)(c)), that would back the assumptions that are included in the project cost estimates and overall financial plan. There are several line items, including public transportation bus stops, Hwy 24 improvements, and utility treatment infrastructure that information is completely lacking other than an estimate of costs.

Comment: We believe that the Service Plan does contain sufficient information to make the required Special District Act findings described above.

There can be little question that there is sufficient and projected need for services, and that the existing services are inadequate (findings “a” and “b”).

With respect to findings “c” and “d,” the Service Plan, with the additional information presented in response to the last set of comments, presents industry-standard information concerning projected costs of infrastructure, growth of assessed value, revenue projections for debt service and operations, and other relevant material. The level of detail provided is the best information presently available and forms a set of reasonable assumptions about the future public infrastructure needs, given the lengthy history of discussions concerning development, and geographical/topographical factors. It should be noted that the Town will have to approve any and all public infrastructure for the Project, and therefore exercises control over what the Districts finance.

Accordingly, in our opinion, the Service Plan contains sufficient information for the Council to make the findings in “c” and “d.”

Further, there is no clarity on what infrastructure will be owned and operated by the districts or other entities. This information will be necessary to truly understand the ongoing operational costs of the districts that will ultimately fall back on the district residents. The financial plan currently calls for a 10-mill levy on property to support the district operations. Without an understanding of what infrastructure will be owned and operated by whom, it is impossible to know whether the 10-mill levy will be adequate to operate the districts. Again, these would be costs that would fall to residents of the districts.

Comment: Presently, it is not expected that the Districts will own and operate any significant infrastructure, other than internal streets, landscaping, and trails. Ultimately, the Town will determine which improvements are operated by the Districts and which are operated by the Town (the water treatment plant will be operated by ERWSD). We have now provided a proforma Operating Budget, prepared by Marchetti & Weaver, CPAs and experts in the field, to reflect the estimated costs to maintain projected District-owned assets, which projects annual administrative and operating costs at \$96,000. The Financing Plan projects in excess of \$600,000 in annual revenues for administration, operations, and maintenance. This amount demonstrates that the Districts will be capable of funding necessary operations.

The Town Attorney has explained that the Settlement Agreement with Battle Mountain does not contemplate the development of detailed plans at this time as those are associated with development approvals for individual phases. Still, Battle Mountain should provide the Town with more detail about how the cost estimates were derived and explain how infrastructure will be constructed and financed if the cost estimates prove to be inaccurate. The engineering estimates are completely fungible and to the extent one line item is overstated, those funds may be moved to fund a line item that is understated. Regardless, once the bonding authority is granted, it is unlikely that as long as the development can support the repayment, the maximum bonding authority will be used. The Town should be somewhat cautious about approving a development that is highly reliant on District financing that may be inadequate to meet the needs to implement the concept (criteria c and d).

Comment: We have now provided additional information from the Developer's engineer – who has years of experience with this project - regarding the basis for the projected costs, as well as maps and other data in support of same. As stated elsewhere, to the extent that actual costs exceed the Districts' capacity to fund, the Developer will provide the balance.

Otherwise, the cost estimates in the service plan do demonstrate a need for services in the Battle Mountain development area to meet future population growth (criteria a and b).

With respect to the financial ability of the districts to discharge the proposed indebtedness on a reasonable basis, I have the following observations:

- The plan as presented will result in indebtedness of \$226,000/per residential lot, which is not an insignificant number.
- With the anticipated residential value equaling approximately \$1,850,000, the 50-mill debt levy will result in an annual property tax bill for the district of \$6,615, not including operations, in addition to the other levying jurisdictions, again not an insignificant number.
- With the anticipated affordable housing residential value equaling approximately \$800,000, the 50-mill debt levy will result in an annual property tax bill for the district of approximately \$2,000, not including operations and levies of other jurisdictions. This additional tax amount will limit to some degree entry into the affordable housing program (or size of house that can be acquired) by persons with limited income.
- It is anticipated that the tax amounts will increase 6% biennially as property values increase for the 30 years that the service plan allows a debt mill levy.

As has been previously discussed with Council, the additional taxes imposed by a metropolitan district can make those residents in the districts resistant to a future voter-approved tax increase.

Comment: Initially, we note that the debt mill levy for the affordable housing units is 35, not 50, although the stated tax amount is correct. The mill levies being proposed for the Districts are fully consistent with those imposed by the vast majority of Metro Districts in the State. The Developer is not proposing mill levies that it believes would have a detrimental impact on the ability to develop the project, and it is not in the Developer's interest to do so.

Many of my original comments regarding the overall viability of the plan (interest rates, issuance costs, coverage ratios) have not been succinctly addressed in the White Bear Ankele correspondence, and thus remain outstanding concerns.

Comment: We believe that all material comments relating to interest rates, issuance costs, coverage ratios and the like have been specifically addressed and do not require further elucidation.

As these will ultimately be Town residents, the Town as the approving authority, is the last line of defense for these future tax payers. These future taxpayers may come to the Town with their complaints long after the developer has completed the development and the residents are left maintaining infrastructure, some of which will have a life cycle of 20 years but will have long-standing indebtedness that will last 30 years.

Comment: Virtually all of the infrastructure that is expected for development of the Project will consist of roads, water, sewer and associated drainage improvements. These are typically given a useful life of at least 30 years by engineers familiar with the lifecycle of such improvements.

All the above being said, Title 32-1-204.5 does allow for the approving authority to conditionally approve the service plan subject to the submission of additional information relating to or the modification of the proposed service plan. If the Town is interested in providing the proponent a conditional approval, conditions that the Town may wish to include in such approval may include, but not be limited to the following:

1. Affirmation of and plan of providing the 20% of the proposed housing units as "affordable". Include estimated values, property tax treatment, maintenance of unit-stock as "affordable" process, etc. May further want to have the proponent explain/defend their "definition" of affordable. For example – just stating that the affordable unit will be \$800,000 doesn't mean that level of housing works for the community.

Comment: This is a land use matter and otherwise governed by existing Town Ordinances. The Districts have no power over land use; they exist only to finance what public improvements the Town approves. In the interest of responding to concerns about the impact on future affordable housing, the applicant has previously made changes accommodating concerns over tax levies.

2. Submittal of detailed development plans, including infrastructure development plans to the Town prior to any commencement of development. Prior to commencement of development activities, proponent shall provide the Town with a detailed site concept plan, grading plan, underground infrastructure plan for water, sewer, wastewater and other utilities to the Town, open space and recreation plan subject to approval Town Council and submit a detailed transportation plan for the development.

Comment: Consistent with the Settlement Agreement, detailed development plans with infrastructure components will be required when the Applicant is prepared to move forward with a subdivision plan – which is a prerequisite to any future development. We have provided additional public improvement data based on the best available information in light of composition of the project and engineering analysis concerning improvements. We note that the Service Plan obligates the Districts to obtain approval of any construction of public improvements undertaken by the Districts. This is also required by Town Ordinances.

3. Detailed operational plan, including cost of operating the districts once development is complete. Details of infrastructure ownership, maintenance, etc. that will also lend additional detail/clarity to the whether a 10-mill levy is going to be adequate for operations.

Comment: We have provided a proforma operating budget, prepared by Marchetti & Weaver, who are experts in this area and have familiarity with other similar projects in mountain areas.

4. Discussion of whether the proponent will be relying on a Homeowners Association to maintain, monitor or other lend operations to the districts.

Comment: The Service Plan prohibits the Districts from undertaking HOA functions. Whether or not the Developer will create HOA's is an entirely separate matter and outside of the scope of review for Service Plans under the Special District Act.

5. Current market data supporting the proposed financing plan.

Comment: The Service Plan financing plan is designed to set a debt limit informed by the actual bonding capacity of the District and with the goal of maximum flexibility, as it is impossible to predict what market conditions will be in place at the time a financing occurs in the future. The financing plan and assumptions therein attached to the submitted Service Plan is identical to the vast majority of financing plans attached to Service Plans approved in jurisdictions statewide. Markets are volatile and financing plans in support of Service Plan approvals are underwritten to favorable market conditions grounded in historical precedent. The assumptions used in Battle Mountain's Service Plan financing plan mimic, and are in fact slightly more

Michelle Metteer, Town Manager

Response to White Bear Ankele Correspondence dated April 15, 2024

May 17, 2024

Page 6

conservative than, actual bond transactions closed as recently as 2021 and 2022. A list of comparable transactions was provided in the previous response.

6. Economic impact analysis of the Battle Mountain Development on the Town's finances.

Comment: The assessment of economic benefits to the Town of having the Battle Mountain Development is outside of the scope of a Special District Service Plan review, and thus is not a project subject for a condition to the approval. This is a question relative to the entire project, and, as the Districts have no power or authority over the development of the project proper, this would seem to fall between the Town and the Developer.

The above is not an all-inclusive list of items that the Town may wish further information and clarification on prior to allowing the proponent to proceed with site preparation and construction of infrastructure.

If a conditional approval is granted, the resolution giving such approval should have a comprehensive list of the items that are to be requested from the proponent included in the text of the resolution to further meet the requirements of Title 32.