



PUBLIC HEARING AGENDA ITEM

DATE OF PUBLIC HEARING: September 18, 2018
SUBJECT: Appeal Hearing Pursuant to C.R.S. § 32-1-501
FROM: Scott Blaha
AGENCY/DEPARTMENT: County Attorney
HEARD AT STUDY SESSION ON: N/A
AUTHORIZATION TO MOVE FORWARD: <input type="checkbox"/> YES <input type="checkbox"/> NO
RECOMMENDED ACTION: That the Board agrees to hear Phoenix LLC's appeal regarding the denial of their petition for exclusion from the Eagle Shadow and Todd Creek Village Park Metro Districts.

BACKGROUND:

Eagle Shadow Metropolitan District No. 1 ("ESMD") and Todd Creek Village Park and Recreation District ("TCVPRD") (collectively, the "Districts") are metro districts located in Adams County Colorado. Phoenix, LLC ("Petitioner") owns certain real property (approximately 97 acres) that lies within the boundaries of both Districts. On June 19, 2018, Petitioner went before the boards of directors of both Districts and petitioned to have its real property excluded from the boundaries of both districts.

The petitions for exclusion were denied by both Districts. The boards of directors issued written resolutions denying the petitions for exclusion and setting forth their findings on each of the statutory factors.

Counsel for Petitioner provided timely notice of appeal to the County Attorney's Office on June 29, 2018. Both parties submitted their written arguments and materials on August 17, 2018. Any responsive arguments are due on August 24, 2018.

Petitioner's right to appeal is grounded in Section 32-1-501 of the Colorado Revised Statutes, which states:

“any petition that is denied or resolution that is finally adopted may be appealed to the board of county commissioners in the county in which the special district’s petition for organization was filed for review of the board’s decision. The appeal shall be taken no later than thirty days after the decision. Upon appeal, the board shall consider the factors set forth in subsection (3) of this section and shall make a determination whether to exclude the properties mentioned in the petition or resolution **based on the record developed at the hearing before the special district board.** Any decision of the board of county commissioners may be appealed for review to the district court of the county which has jurisdiction of the special district pursuant to section 32-1-303 within thirty days of such board’s decision.” (emphasis added)

The parties agree that the service plans for the special districts, the board meeting minutes, the petitions for exclusion, and the resolutions denying said petitions are all part of the record developed at the hearing before the special district board.

There are no official transcripts of the board meetings at issue. However, Petitioner has provided in its materials a document entitled, “TRANSCRIPT OF EAGLE SHADOWS METROPOLITAN DISTRICT NO. 1 AND TODD CREEK VILLAGE PARK AND RECREATION DISTRICT EXCLUSION HEARINGS TAKING PLACE ON JUNE 19, 2018.” Petitioner represents that this document is a transcript generated from an audio recording of the board meetings. This document contains a “Transcriber’s Certificate” and is dated August 8, 2018. Petitioner suggests that this transcript is a part of the official record.

The Districts indicate that they were not made aware that the board meetings were being audio recorded. The Districts have various objections to the transcript, and do not concede that it is a part of the official record. However, they do cite to the transcript in their argument.

The County Attorney’s Office is requesting that this matter be scheduled for public hearing before the Board of County Commissioners on September 18, 2018.

AGENCIES, DEPARTMENTS OR OTHER OFFICES INVOLVED:

County Attorney

ATTACHED DOCUMENTS:

- Staff Report
- Appeal Materials

FISCAL IMPACT:

Please check if there is no fiscal impact_X_. If there is fiscal impact, please fully complete the section below.

Fund:**Cost Center:**

	Object Account	Subledger	Amount
Current Budgeted Revenue:			
Additional Revenue not included in Current Budget:			
Total Revenues:			

	Object Account	Subledger	Amount
Current Budgeted Operating Expenditure:			
Add'l Operating Expenditure not included in Current Budget:			
Current Budgeted Capital Expenditure:			
Add'l Capital Expenditure not included in Current Budget:			
Total Expenditures:			

New FTEs requested: ☐ **YES** ☐ **NO**

Future Amendment Needed: ☐ **YES** ☐ **NO**

Additional Note: