

# Introduction to Fairway Villas' Metropolitan Districts and Major Service Providers – Revised September 2020

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**Introduction:** As a result of the a series of *Denver Post* articles in late 2019, and early 2020 about the structure, issues and problems with metropolitan districts in Colorado, the CAC and some concerned residents decided to try to educate Fairway Villas (“FV”) residents about the metropolitan districts and major service providers that manage us and affect our daily lives. We are sharing information about the highly complex structure as best as we know them. We do not represent that the information is authoritative, nor have we had a legal review, nor is it officially sanctioned information. As you read this commentary, please refer to the attached exhibits for reference.

Links to the *Denver Post* articles:

Subject: Denver Post investigation into Colorado’s metro districts reveals billions in debt paid by homeowners

<https://www.denverpost.com/2019/12/05/metro-districts-debt-democracy-colorado-housing-development/>

Subject: Mamet: Enhance oversight and accountability of metro districts

<https://www.denverpost.com/2019/12/20/mamet-enhance-oversight-and-accountability-of-metro-districts/>

Subject: Metro districts in Colorado have little transparency on transfer fees, community funds

<https://www.denverpost.com/2019/12/09/metro-districts-transfer-fees-nonprofits-foundations/>

From definitions found on the Department of Local Affairs (“DOLA”) website—General information on Title 32-1 special districts:

*Special Districts in Colorado are local governments, i.e., political subdivisions of the state, which make up a third level of government in the United States. (The federal and state governments are the other two levels.) Local governments include counties, municipalities (cities and towns), school districts, and other types of government entities such as "authorities" and "special districts."*

*Colorado law limits the types of services that county governments can provide to residents. Districts are created to fill the gaps that may exist in the services counties provide and the services the residents may desire. The majority of districts draw their*

*boundaries in unincorporated county land, but residents of a municipality may be included in one or more districts.*

*As political subdivisions of the State of Colorado, special districts are required to submit a number of required filings to various state agencies throughout the year. These filings are primarily financial, but also include election results, lists of boards of directors, and others.*

Many metropolitan districts within Colorado were created as a mechanism for residential building/developing companies (as opposed to cities and counties) to finance the funding for developing new residential communities through the issuance of bonds backed by the ability of the metropolitan districts to levy taxes on property within the districts to repay that debt. Their purpose is to reduce the financial risk to builders who are developing new areas. In theory, home costs would be less expensive (since developers' infrastructure cost recovery would not be included in the purchase price) because the taxes for servicing the infrastructure debt are higher. In actual practice, the *Denver Post* has not found evidence to support this expectation.

Although the state and local municipalities approve the formation of metropolitan districts, in practice, they have not provided any oversight of the districts they have enabled. Other than certain reporting requirements to the State, the laws provide no oversight by the Attorney General, state legislature nor any city or county government. Many Coloradans view certain metropolitan district boards as being accountable to no one when residents or property owners within the districts have no ability to run for or elect the boards of directors, thereby leaving residents with no recourse available to exert any influence on the business of the boards. Changing this situation would require action by the state legislature.

**Oakwood Homes (“Oakwood”):** Oakwood is a company that has developed a number of communities in the Denver area, including Green Valley Ranch, both North and South. In order to finance the infrastructure (roads, sewers, etc.) of the part of the community we live in, it established two metropolitan districts to issue debt to repay their investment and to manage the communities. It also selected the initial board members of these districts (since there were then no homes or residents in the community). The FV communities, Phase 1, also known as Town Center Subdistrict 1 (“FV1”), and Phase 2, also known as Town Center Subdistrict 4 (“FV2”), are part of and are surrounded by Green Valley Ranch North (“GVRN”). The two metropolitan districts Oakwood created are Ebert Metropolitan District (“Ebert”) and Town Center Metropolitan District (“TCMD”), both defined below.

**Ebert Metropolitan District (“Ebert”):** Ebert covers the entire GVRN area, which is roughly bounded by Green Valley Ranch Boulevard (south), Tower Road (west), 56th Avenue (north) and Picadilly Road (east). It includes an additional large parcel of land at the Southwest corner of Tower Road and Green Valley Ranch Boulevard, and excludes the Town Center Metro District (refer to the maps in the Functional Chart document). Its board has five members who are all residents or property owners within the Ebert boundaries (unlike the makeup of many Colorado metro districts) and are elected by Ebert (mostly GVRN) residents. Its primary function is to manage the original bond debt used to finance the area’s infrastructure. It collects taxes to repay bonds for infrastructure debt, for a general fund to provide services that it uses in conjunction with TCMD for district area projects as governed by an Intergovernmental Agreement between Ebert and TCMD. It is posted on the FV CAC website [www.fvcac.com](http://www.fvcac.com). It also has established a debt service reserve fund to protect its ability to service the bond debt in the event of a temporary downturn in the economy and the assessed value of the tax base. It has the authority to levy taxes to repay the infrastructure debt, provide the funding for the general fund services it and TCMD provide within the district (accounting, insurance, Westwind, some of Timberline, etc.) and to set aside money for the capital replacement fund. The bond debt currently is about \$108 million, payable over the next 29 years. The portion of the mill levy for 2019 tax assessments was about 58 mills on each property’s assessed value. Of that 58 mills, 40 mills were to service the bond debt, 17 mills were for the services and 1 mill was for the capital replacement fund. The capital replacement funds ***do not*** include any reserves for District or Subdistrict capital improvements, such as for the Clubhouse, Lodge, mail stations, etc.

**Town Center Metropolitan District (“TCMD”):** This district is a discrete geographical area located within the Ebert Metro District. It manages the operations of GVRN and provides some services outside of GVRN. It also owns the land on which the Green Valley Ranch Golf Course is located (the Metro District proper) and also owns all the common areas established by each of the platted development parcels within the Ebert Metro district. Its board members are all Oakwood employees or individuals “nominated” by Oakwood and include one resident of GVRN. It hired Timberline to manage the community and approves the selection of the major service providers. It has the power to levy taxes on the GVRN subdistricts, including FV1 and FV2, in order to pay for the cost of its operations. For 2020 tax collections, the subdistrict mill levy for FV1 and FV2 was about 55 mills. For 2021, we expect this levy (and the one for FV2) will be about the same. Town Center uses all of the revenue from these tax levies to operate and maintain the community facilities, mainly the Clubhouse and the Lodge. The funds are not used for any other common area maintenance, such as the park areas, which all come from the Ebert mill levy.

TCMD is the owner of the Clubhouse and all the common area property within FV. Although Oakwood owns the Lodge, it plans to transfer ownership to TCMD before the end of 2020. TCMD has established Rules and Regulations for conduct and usage of the Clubhouse and the Lodge and at the beginning of 2020 incorporated some minor changes to the existing Rules. The CAC has posted them on its website [www.fvcac.com](http://www.fvcac.com).

GVRN residents have had some significant concerns with the TCMD over the years, which concerns are driven by the Colorado statutes that created the metropolitan districts:

- Board members are not elected by GVRN residents: Based on the way the statutes were written, developers could appoint the initial board members, who then determine future board election policy. The existing TCMD members nominate new directors, most, if not all, are employees of Oakwood or have close ties to Oakwood. To date, no GVRN non-Oakwood affiliated residents have been nominated for board membership. Because of that policy, residents often point out the issue of “taxation without representation.”
- Eligible Owners: TCMD complies with state statutes related to the board member eligibility by restricting board nominees to having ownership of property within TCMD. In this case, ownership is defined as a tiny piece of a small parcel of land along 56th Avenue, where the natural gas line facility is located. Oakwood controls the land ownership within that parcel, and, therefore, who is eligible to be an elector and TCMD board member
- Taxing decisions are not subject to the Taxpayer Bill of Rights (“TABOR”): Soon after its creation, the TCMD board elected to exclude the district from the provisions of TABOR, primarily the condition that the district must get taxpayer approval before raising tax rates. Originally the purpose was to allow them to “efficiently” raise enough taxes to pay for its debt and growing operating expenses as the development grew. Now that GVRN is nearly fully built out, this provision continues to be a matter of residents’ concerns.
- Lack of transparency: Historically, TCMD posted notices of its public board meetings on a remote site where residents are encouraged to avoid going (a natural gas pumping station). Likewise, it published its state-mandated notices in an obscure publication, one primarily used by developers and which has a high subscription cost. Minutes of meetings, financial statements budgets and other pertinent information have been slow to be posted on its information website (which has not always worked properly). Finally, it holds its board meetings at 8 or 8:30 am on weekdays; convenient for them and their advisors, less so for working GVRN residents.

In fairness, TCMD has been working to improve its transparency. It is working to improve its website to make information more accessible. It has also been more forthcoming with the FV CAC in providing information and answering questions, including reviewing annual budgets. It also requested input from residents for changes in the Rules and Regulations as well as for priorities for spending the FV capital expenditure budget in 2019.

**Timberline District Consulting, LLC (“Timberline”):** Timberline is the company selected by TCMD to manage the operations of GVRN and to manage the maintenance of the FV Clubhouse and Lodge. In addition, the two other main service providers, Westwind and the YMCA of Denver, report to Timberline. Jerry Jacobs is the founder of Timberline; he is a former employee of Oakwood and a former TCMD board member. Timberline also performs management services for areas outside of GVRN.

Our experience with Timberline as District Manager has been mixed. In 2019, residents discovered a number of maintenance-related problems that had been neglected for years, which led to some costly repairs. However, Timberline has accepted and implemented several suggestions from the CAC to improve its future performance. Likewise, it is considering other improvements in performance that it plans to implement in 2020.

**Westwind Management Group, Inc. (“Westwind”):** Westwind began working for TCMD in August 2019. It functions much like a management company for a traditional Homeowners Association. It sets no district policies; it merely manages the structure and processes to enforce the rules and policies that TCMD establishes. Its duties include covenant compliance within GVRN, maintaining the TCMD website, processing homeowner landscape and home design changes and maintaining the website for residents to report common area maintenance, landscape and other problems. The attached exhibits describe how residents can establish a personal account with Westwind, allowing residents access to Town Center information postings, as well as how to complete a work order request to fix common area problems.

**YMCA of Metro Denver (“YMCA”):** TCMD hired the YMCA in June of 2020 to operate the FV Clubhouse and Lodge facilities, hire the Clubhouse staff and organize social and fitness activities. It is not responsible for Clubhouse maintenance.

The Clubhouse staff, currently headed by Alex Kennedy, Lifestyle Director, performs many functions, including:

- Organizing fitness programs and arranging for fitness instructors;
- Organizing and facilitating social events including those funded from the social budget, those funded by Oakwood at Ebert's and those organized by residents. This effort includes shopping for supplies and setting up tables, and finding entertainers among other things;
- Communicating regularly with residents about upcoming activities and events through their weekly, monthly and as-needed email reports;
- Clean kitchen and fitness equipment regularly as well as restocking supplies;
- Escorting potential new homeowners around the facilities and answering questions about the community;
- Processing new residents by issuing security fobs, distributing a welcome packet of information and answering any of their questions;
- Acts as the primary contact and scheduler for all the vendors who perform work in the FV amenity facilities;
- Meet with residents to answer their questions, listen to their complaints and help them resolve problems when possible;
- Other administrative duties.

**Community Advisory Committee (“CAC”):** In early 2016, FV residents created the CAC, through the establishment and adoption of Bylaws that the then residents voted nearly unanimously to approve, in order to facilitate communications between residents and the metro district boards and primary service providers. You can reference the governing Bylaws on its website: [www.fvcac.com](http://www.fvcac.com). It is not a Homeowners Organization, has no budget, has no explicit powers and is comprised of up to 6 volunteers, elected by the residents for staggered two-year terms. It maintains a website that has a lot of useful information, a suggestion box in the lobby of the Clubhouse and emails regular newsletters to residents. It meets at least monthly to discuss community business and holds at least quarterly communication meetings

with residents. It also meets and emails frequently with district board members and significant service providers.

Section 2.2 of the Bylaws states that the CAC “shall establish mechanisms to gain an understanding of issues...” related to community facilities and operations. Based on this clause, the CAC established two subcommittees, one to deal with social issues and one to deal with financial issues. Part of the intent of organizing these was to get more community members involved in the work of the CAC. One works well, and the other not so well. The CAC recently terminated its involvement with the social subcommittee it established because it was causing friction with residents and the Clubhouse staff, and residents are already doing an excellent job in organizing social and charity events.

The CAC formed the Finance subcommittee for a number of reasons. First was to get more community members involved in understanding the FV finances. Second was to get more and deeper involvement in understanding the expenses related to managing and maintaining the community. Third was to increase interaction and trust with TCMD and Timberline related to budgets and expenses. Finally, and the biggest reason, was to prepare a group of people to understand the finances of FV when Oakwood withdraws its financial support of FV1 and FV2 operations through its Developer Contributions (see also the budgets posted on our website). At that point, the CAC and its finance group will need to have a plan to work with TCMD/Timberline to better manage our expenses in order to properly maintain our facilities, stay within budgets and avoid future tax increases to the extent possible. In addition, this group will be working with Town Center in 2020 to develop a plan to start funding reserves for long term capital needs as the current buildings and furnishings begin to age and deteriorate. This is a forward-looking group of concerned residents working for the long-term best interest of the FV community.

**Summary:** The commentary above is a summary of the issues surrounding the management of our community. The attachment has contact information if you have questions or want more information. We tried to present issues the way we understand them in as factual a way as possible.

**Appendix:** Please refer to the attached PDF file. It is a Functional Chart of the Districts, Subdistricts and the organizations that affect the residents of FV. The first page has colored boxes for four entities. These entities (Denver, Ebert, FV Phase 1 and FV Phase 2, both of the latter through TCMD Subdistricts) have the ability to assess mill levies used to establish our

property taxes. These mill levies are additive. Thus, when you receive your tax billing, it will itemize mill levies for the various Denver funded accounts, Ebert Metro District, and Town Center Metro District Subdistrict 1 OR Subdistrict 4. The first page also includes hyperlinks to other places within the document for supplemental contact information if you have questions or want more information. The file also includes maps to assist in geographically orienting the reader to the alphabet soup of names and entities. The final two pages describe the mechanics of using the Westwind websites for access to metro district information and for reporting issues through work orders.

For further information on metro districts, the CAC has posted on our website a report that DOLA created titled: *Special Districts: A Brief Review for Prospective Homeowners*. Also posted is a one-page exhibit that answers questions posed on Page 6 of the DOLA report. These answers are specific to Ebert only.

**CAC Website:** [www.fvcac.com](http://www.fvcac.com)

*Bill Schmidt; Al Morie; Linda Parker; Murray Hawthorn; Scott Fallon; Susan Genaro; and contributions from other FV residents - September 2020*