

Councilmembers,

I believe all of you are aware of my concerns with creating a second downtown development authority and the local and statewide risks that carries with it towards the future use of TIF. I've also spent time with both Kevin Walker and Chelsea Gondeck on this issue and both have stated that the DDA is not only the wrong tool, but that it's more than clear that a BID is the more appropriate and proper path (Chelsea just recently publicly stated this in her last DDA meeting). Kevin, Chelsea and I are all experts in the area of districts and the use of TIF, but I still wanted to dig further into what happened with this election and why I was receiving so many calls from businesses not receiving ballots and claiming no communication from DDA supporters, because if I was a councilmember, I would want that too. In the hopes of putting some of these theories to rest, I asked my attorney to do a CORA request with the election officials, and all those documents (sorry too big to attach) can be found here:

[Link removed by United Westside: the folder lists voters' names and addresses]

In addition to the information in this link, I've also attached to this email a heat map of the businesses that were given a designated elector form to be eligible to vote, as well as a simple excel spreadsheet listing the address of each business, the first and last name of the elector and whether they are a renter or an owner (I think you will easily see a theme). I also took the time to enter some of these businesses myself to ask how these designated elector forms were obtained in the first place.

Before I begin to explain the issues that I have discovered below, I want Council to know that on September 2nd I met with Adam Stepan (OCCDDA chair) and we had what I feel was a polite conversation. While we still disagree on the path forward, the meeting was civil and I'm telling him, OCC and all of Council, that I will still help this group form a Business Improvement District (both Kevin and Chelsea have offered to help with this as well) and I will solicit funding from my organization to move forward on it.

I understand the two principal arguments for allowing the DDA to continue that some of you have brought up or considered:

- 1 The voters approved its creation, and Council should respect the will of the people.**
- 2 The DDA should receive another opportunity to secure approval of its mill levy, with the understanding that it will voluntarily dissolve if that effort fails.**

On the surface, both arguments are understandable. Unfortunately, neither resolves the underlying concerns about the election, the adequacy of stakeholder notice, or the long-term financial commitment represented by this authority.

1) Respecting the vote requires confidence in the election

Council is right that election results should not be casually overturned. However, respecting an election requires more than accepting its certified outcome without

examining whether the correct electorate was identified, whether the boundaries were lawful, whether qualified electors received adequate notice, and whether those electors were treated fairly and consistently.

A review of the election records found:

- **84 residential parcels (out of 266) did not receive ballots**
- **247 commercial properties (out of 333) did not receive ballots**
- **This means that 55% (331 of 599) of parcels within the boundary were not provided with the opportunity to vote in this election.**
- **17 parcels were later identified to be in unincorporated El Paso county- 4 votes were returned/counted from these properties. If you look at ballot measures C and D, those passed by less than 4 votes.**
- **128 ballots were mailed to registered voters c/o Westside CARES and 6 of these ballots were returned/counted. Designation of an eligible voter for this type of election requires proof of residency within the boundaries. While Westside CARES offers a mailing address to people experiencing homelessness, they do not provide housing or beds to these individuals.**
- **67 ballots were sent to recipients associated with non-residential addresses whose qualification is not explained through the ownership and designation records supplied.**

“The people voted” is persuasive only if Council can first answer: Which people were legally entitled to vote? Were all of them reasonably identified? Were they adequately informed (many were not offered a designated elector form)? Were ballots limited to that electorate? In my opinion, at present, the official record does not provide satisfactory answers, and I’ve only outlined a portion of some of the issues that lay within it.

The adequacy of notice is particularly important because the consequences of creating and financing a DDA extend well beyond a single election or a modest annual assessment. A mill levy would increase property taxes across the district, including residential and commercial parcels that may receive vastly different levels of direct benefit from the DDA’s activities.

A decision of this duration and consequence should require meaningful notice and a reasonable level of understanding among all residents, property owners, businesses, lessees, and the affected taxing entities (SD11, PPLD, El Paso County and SEWCD). The available record also does not show this to be the case.

2) The 2024 vote produced two distinct expressions of voter intent

The same electorate that approved creation of the DDA also rejected its proposed mill levy.

Preserving the DDA based on the successful question while repeatedly resubmitting the failed tax question risks appearing to honor only the part of the election that produced the desired answer.

A new mill-levy vote would not establish that the original electorate was complete. It would not resolve whether adequate notice was provided. It would not explain why so many parcels lack a traceable ballot recipient or why many recipients cannot be connected to an owner or designated-electors form through the records provided.

3) The geographic pattern of election participation is concerning 85% of the non-residential properties that voted listed qualifying-property addresses between the 2300 and 2800 blocks of West Colorado Avenue (see attached map of DDA boundaries and the red heat area of votes that make up the ONLY businesses that were given a form to be eligible to vote) and most of them were commercial tenants.

Most of the communication and outreach, organized support and participation came from the businesses most likely to receive direct benefits from marketing, events, streetscape improvements and investment in the core commercial area.

The proposed DDA boundary contains 599 parcels stretching well beyond that concentration of participation. Many of those parcels are residential, are outside the core business district, or have not been shown to receive benefits proportionate to the taxes and public revenues that will be committed.

These facts further solidify why this discussion should be about creating a BID and not a DDA.

Bottom Line - allowing the OCC DDA to continue specifically discounts the “will of the people” as evidenced by what appears to be numerous issues with the election itself:

- **Lack of accurate and lawful boundaries;**
- **Lack of a documented and independently reviewable electors list;**
- **Lack of direct and meaningful notice to residents, property owners, businesses and lessees;**
- **No plain-language explanation of the mill levy, TIF and the effect on other taxing entities;**
- **No transparent process for designated electors;**
- **No defined plan of development**

This decision should not be framed as choosing between supporting Old Colorado City and abandoning it. The issue is whether this particular authority has a sufficiently reliable and broadly supported foundation to exercise long-term governmental and financing powers. In my judgment, and after reviewing the election documents, it does not.

I cannot just speak on the importance of TIF and infill development tools and why I feel they are needed in various areas/projects without also standing up and saying something when I feel it is being abused; otherwise, my word means nothing.

For those reasons, I recommend that Council approve dissolution of the OCC DDA and encourage the stakeholders to work with Kevin, Chelsea and myself to evaluate a more focused and equitable business improvement district structure.

Respectfully,
Jariah

PS

I did make this election information link available to businesses in the corridor who expressed concerns about how the DDA process was handled.