By John Henderson
Guest Commentary

In 2016 a neighbor posted a seemingly simple question online “why do my taxes keep increasing?”

The effort to answer that question took me on a three-year journey that exposed the depths of special district abuse not only in my community — Solterra — but across Colorado. The thread on Nextdoor led to my first meeting a week later with neighbors and a resident appointed by the developer to the Solterra special district board. He was there to “monitor” the conversation. His words.

An hour later a clear message: Residents won’t understand; they won’t care; don’t rock the boat.

I left my neighbor’s home smiling. I’m still rocking and won’t quit until I stop special district abuse.

So what was the developer of Solterra, Brookfield Residential, trying to hide?

Solterra residents, according to Brookfield’s own presentations and documents outlining bonds issued over the years, had paid the developer as of Dec. 31, 2016, a total of $21.2 million in interst and $7.1 million in principal on a $55 million advance from the developer.

This was part of an agreement Brookfield made with itself to pay for development expenses plus 6 percent interest.

In addition taxpayers have continued to pay between 4.5 %

and 7.25% on the bonds issued to repay a portion of the Brookfield loan, which acording to the bond documents is $36 million in interest over the life of the bonds.

How could such a fiscally imprudent thing happen with taxpayer dollars?

Lakewood created the Solterra metropolitan district in 2006 — named Fossil Ridge on vacant land.

Immediately the "electors" (people who can vote) held an "election." It would be the first and only election for the next 11 years.

The "electors" were eight voters. All employees of Brookfield. They voted to eliminate an important right of future residents — the right to vote on their own future taxes.

They gave that right to the board of directors.

And for 11 years the boards of directors were Brookfield employees.

Every public election since 2006 was canceled because "no one wanted to run." "No one wanted to run" because residents were told by many with Brookfield that they couldn't run until the development was 75% completed. That was untrue.

Since "no one wanted to run" the Brookfield employees continued to appoint themselves to run the boards.

And for those 11 years, the Brookfield employees voted four times to issue bond debt.

Directors of the board also voted in 2006 to set a limit on how much future Solterra homeowners would be taxed to pay off the “loan” from the developer — a modest $4.9 billion when you add up principal and interest over the next three to four decades.

The good news is that my neighbors in Solterra woke up. They did understand. They did care. And they rocked the boat.

In May, 2017, 26 residents knocked on doors and obtained 749 signatures to recall the Brookfield employees off the Solterra boards. A couple of nights there was a line outside my front door to sign petitions.

We later discovered that Brookfield planned to issue another $30 million in bond debt in June 2017.

But the bond counsel told them they could not possibly sell the bonds. You see, the bonds tell the bond investors that the residents really like the idea of borrowing all this money and paying all this interest. After all, the bonds explain, the residents voted.

Of course, what the bonds don’t say is that the there were only eight voters, they all worked for the developer and all the scheduled elections since then, for 11 years, had been canceled by the developer. Having to disclose a pending recall petition would kinda muddy the waters.

The recall removed the Brookfield employees from the boards. It also stopped more bond debt, for now.

Solterra is not unique. Special districts across the state are using bonded debt, approved solely by developers who stand to profit, to fund infrastructure.

We all must ask, why special districts? Is there a better way to pay for infrastructure — streets, sidewalks, pipe in the ground?

The most efficient way is for the developer to use his money. He will spend his own money in the most efficient manner possible. That cost is included in the value of the lots. This is how developers do it in other parts of the country. This is how they do it here if the developers continue to own the property and in commercial development (those customers know the game).

But the most profitable way to pay for infrastructure is to use the residents' money through a special district. Still, start with the developers' money. But now add a profit margin — pick an arbitrary figure. And make it a loan to the future residents. And don't have them pay it back right away. Have them finance repayment of the loan with another loan — bond debt.

Brookfield explained to 250 residents in April 2017, that the $28 million in checks Brookfield received from selling the bonds went to pay for $21 million in interest for $7 million worth of pipe in the ground. In addition the interest on the bonds is $36 million.

Solterra is now paying more than $2 million a year to pay off this bond debt and Brookfield wants another $30 million.

And we still don't really know what they spent the money on. Or what happened to the money that paid for lots.

During an informal session of three mediation meetings attended by Lakewood Mayor Adam Paul to persuade us to withdraw the recall petition, I asked again.

Brookfield's attorney stated they were still trying to figure it out -- 11 years later.

How does this happen? Periodically there are reports of special district abuse. A local public television reporter broadcast a series in 2008. Castle Pines declared bankruptcy in the late 1980s.

It happens because lots of people make lots of money doing it: attorneys, bond investors with the safest investment available backed by property taxes and equity in homes, an industry of management companies running special district meetings and special district organizations, an industry of special district engineers running special district projects.

And local municipalities like Lakewood relying on side deals with the developers to make improvements outside the district boundaries.

In Solterra's case a large dog park, significant improvements to three roads, and more pipe in the ground to pave the way for developing the rest of Rooney Valley. Oh, and contributions to a $20 million highway interchange to facilitate the development of the land around Dinosaur Ridge.

A huge industry built around financing infrastructure to generate more profit, not more value.

At a minimum, here is what every city and county must do to protect future homeowners and to stop the billions of dollars being sucked out of the Front Range. Money that could be invested in roads, schools, police and fire.

1. Ballot issues. Submit all ballot issues for prior approval by the city or county until the boards are exclusively residents. This should preserve the future residents' right to vote on their own debt. And hold the developer accountable for actual costs.

2. Disclosures. You know more about how your money is being spent when you finance the purchase of a used car than when you purchase a home in a special district. Disclose the total amount of interest being paid to the developer. Disclose the total financing cost is $4.9 billion. Disclose the loan.

I was smiling almost three years ago because I love our community, and I then knew how to protect it from the unchecked greed associated with its creation — rock the boat.