

Legislation Text

File #: 19-297, Version: 1

Presenter

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SUBJECT:

Discuss and consider a request to consent to the creation of the Lone Oak Farm MUD (Municipal Utility District) within the City's ETJ within Guadalupe County.

BACKGROUND / RATIONALE:

Council District: Outside the City Limits

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The Texas Water Code (Chapter 54) and Texas Local Government Code (Chapter 42, Section 42.042), see attached, outline the procedures for the creation of Municipal Utility Districts (MUDs). A MUD is a political subdivision of the State, outside a city limits. They are generally desired by developers when the subject properties lie beyond the physical reach of utility providers and/or outside utility company Certificates of Convenience or Necessity (CCNs). They are a tool authorized by the Texas Legislature to allow developers to raise funds through the sale of bonds to pay for provision of water, sewage, drainage, and/or roadways. The MUD can then levy its own taxes and fees on the future property owners within the development as approved by a publicly elected board of directors.

When a proposed MUD lies within the boundaries of a city's Extraterritorial Jurisdiction (ETJ), the respective city must give its consent before the MUD may be established. Consent by the municipality allows the developer to initiate proceedings to create the MUD through the Texas Commission on Environmental Quality (TCEQ). If a city does not consent, or does not provide a timely consent, state statute allows the property owners to pursue city consent through other means.

The subject proposed MUD lies within New Braunfels' ETJ along the south side of FM 758, east of the Airport, and west of State Highway 123 (see attached maps). The MUD comprises the western portion of a larger future Master Plan submittal for a residential neighborhood the developers are planning to name Navarro Farms Subdivision.

The applicant has indicated they anticipate a water service agreement with Crystal Clear Special Utility District (SUD) will be approved for their development in June, 2019. And they anticipate Seguin will approve an agreement in May, 2019, to provide sewer service as an alternative to the developer building a packaged treatment plant.

While the developer has indicated they would have these utilities in place, he notes they are requesting the MUD for the project to be financially feasible:

- a. The receipt of water and sewer service from the third party providers requires extensive offsite capital infrastructure improvements.
- b. In the absence of the MUD, the cost of utilities would have to be recovered in the lot sales price. The MUD allows the utility costs to be repaid from bond proceeds rather than from the lot sales price.
- c. If the cost of utilities were included in the lot sales price, the lot prices would not be competitive, and the project would no longer be viable.
- d. The MUD allows the cost of infrastructure to be financed over time rather than upfront in the lot sales price. The MUD will issue bonds under which the residents will repay the infrastructure costs over 20 to 25 years rather than upfront in their lot sales price.

The applicant has indicated their intent is for the MUD to remain in existence only as necessary for infrastructure financing. After financing, the District would serve no purpose and would cease to exist through either the board of directors dissolving it, or if the City of New Braunfels elects to annex it.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

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| <p>City Plan/Council Priority Envision New Braunfels Comprehensive Plan</p> | <p>Action 1.3: Encourage balanced and fiscally responsible land use patterns. Action 6.5: Utilize public/private partnerships to guide growth and investment. Regional Planning: • Balance resources in an equitable manner that does not lead to disinvestment in existing New Braunfels. • Assure the long-term fiscal health of New Braunfels and that policy decisions do not create an undue fiscal burden on the City or others. • Ensure that the policy provides guidance for decisions made by utility providers, so they can aid in achieving Envision New Braunfels.</p> |
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FISCAL IMPACT:

If the City were to annex before expiration of the MUD, the City would assume any remaining debt of the MUD. Otherwise, annexation should wait until the MUD no longer exists.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff has reviewed the location of this proposed MUD against policy guidance in Envision New Braunfels, as well as other plans including the Regional Transportation Plan. The site is within New Braunfels' ETJ and, therefore, will have to comply with New Braunfels subdivision, drainage, parkland dedication, roadway design, right-of-way dedication, etc. ordinances. Additionally, the developer has indicated they will not be building a packaged treatment plant as they will receive wastewater services from a utility provider. Therefore, staff recommends consent with the following conditions as authorized by state statute:

- That all facilities to serve the land be in accordance with plans and specifications approved by the City of New Braunfels, including inspections, as applicable;
- The district may only issue bonds for the purposes as outlined in Chapter 54 Section (e) of the Texas Water Code; and
- For any territory either presently within this MUD's boundaries, or in any future expansion, that lies within an area of Seguin's ETJ that is pending movement to New Braunfels' ETJ pursuant to the 2018 Interlocal Agreement between New Braunfels and Seguin regarding ETJ exchange, that the MUD board of directors voluntarily request said area be placed in New Braunfels' ETJ.

Attachments:

1. Reference Map
2. Aerial Map
3. Applicant's boundary map
4. Applicant's legal description
5. Applicant's draft resolution
6. Chapter 54 of the Texas Water Code
7. Chapter 42 of the Texas Local Government Code