

By: Eissler

H.B. No. 3564

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Montgomery County Road Improvement
3 District No. 1; providing authority to impose a tax and issue bonds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. CREATION OF DISTRICT. (a) Montgomery County
6 Road Improvement District No. 1 is created as a special district
7 under Section 52, Article III, and Section 59, Article XVI, Texas
8 Constitution.

9 (b) The board by resolution may change the district's name.

10 SECTION 2. DECLARATION OF INTENT. (a) The creation of the
11 district is necessary to promote, develop, encourage, and maintain
12 transportation, safety, employment, commerce, housing, tourism,
13 recreation, the arts, entertainment, economic development, and the
14 public welfare in the area of the district.

15 (b) The creation of the district is essential to accomplish
16 the purposes of Sections 52 and 52-a, Article III, and Section 59,
17 Article XVI, Texas Constitution, and other public purposes stated
18 in this Act.

19 SECTION 3. DEFINITIONS. In this Act:

20 (1) "Board" means the board of directors of the
21 district.

22 (2) "District" means Montgomery County Road
23 Improvement District No. 1.

24 SECTION 4. BOUNDARIES. The district includes all the

1 territory contained in the following described area:

2 DESCRIPTION of 2,230 acres of land, more or less, situated in the
3 Joseph A. Parker Survey, Abstract Number 418, Montgomery County,
4 Texas, save and except a called 300 acres, more or less, tract of
5 land, conveyed to Ellen M. Blake by Kathleen Selman, et vir, by deed
6 dated November 30, 1942 and recorded in Volume 234 at Page 191 of
7 the Deed Records of Montgomery County, Texas, leaving a net total of
8 1,930 acres of land, more or less, and being out of and a part of a
9 called approximate 4,445 acres of land set apart to Chas. A. Bahr,
10 Sr., by Chas. A. Bahr, Sr., et al, by deed dated November 17, 1953
11 and recorded in Volume 361 at Page 170 of the Deed Records of
12 Montgomery County, Texas, said 1,930 acres, more or less, of land is
13 more particularly described as being all of that land lying between
14 the East or northeast bank of Spring Creek and the West or southwest
15 bank of the West Fork of the San Jacinto River, lying South of and
16 adjoining a right of way and easement conveyed to the
17 Transcontinental Gas Pipeline Corporation by A.C. Wood, et al, by
18 deed dated May 1, 1950 and recorded in Volume 297 at Page 465 of the
19 Deed Records of Montgomery County, Texas and later amended by Chas
20 A. Bahr and Transcontinental Gas Pipeline Corporation by Amendment
21 to Right of Way Agreement, dated June 7, 1960 and recorded in Volume
22 483 at Page 543 of the Deed Records of Montgomery County, Texas, the
23 centerline of said Transcontinental Gas Pipeline, as marked on the
24 ground this date, is more particularly described by metes and
25 bounds as follows to wit:

26 NOTE: ALL BEARINGS AND COORDINATES ARE BASED UPON THE TEXAS
27 COORDINATE SYSTEM OF 1983, (1993 ADJUSTMENT). ALL COORDINATES ARE

1 GRID COORDINATES AND ALL DISTANCES ARE ACTUAL DISTANCES, (U.S.
2 SURVEY FEET), AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A
3 COMBINED SCALE FACTOR OF 0.999943.

4 BEGINNING, in the West or northwest bank of Spring Creek at a found
5 Transcontinental Gas Pipeline marker, this beginning point has a
6 Texas Coordinate System of 1983, (1993 Adjustment), value of X =
7 3,135,862.1 and Y = 13,946,350.4;

8 THENCE North 71 29'51" East, a distance of 526.29 feet to a found
9 Transcontinental Gas Pipeline marker;

10 THENCE North 72 25'43" East, a distance of 525.00 feet to a found
11 Transcontinental Gas Pipeline marker;

12 THENCE North 71 51'33" East, a distance of 444.38 feet to a found
13 Transcontinental Gas Pipeline marker;

14 THENCE North 71 56'15" East, a distance of 962.41 feet to a found
15 Transcontinental Gas Pipeline marker;

16 THENCE North 71 45'16" East, a distance of 49.56 feet to a found
17 Transcontinental Gas Pipeline marker;

18 THENCE North 72 20'31" East, a distance of 520.72 feet to a found
19 Transcontinental Gas Pipeline marker;

20 THENCE North 72 16'02" East, a distance of 384.83 feet to a found
21 Transcontinental Gas Pipeline marker;

22 THENCE North 72 13'00" East a distance of 659.19 feet to a found
23 Transcontinental Gas Pipeline marker;

24 THENCE North 72 11'42" East, a distance of 1,804.76 feet to a found
25 Transcontinental Gas Pipeline marker;

26 THENCE North 72 19'27" East, a distance of 1,589.76 feet to a found
27 Transcontinental Gas Pipeline marker;

1 THENCE North 72 23'11" East, a distance of 620.68 feet to a found
2 Transcontinental Gas Pipeline marker;
3 THENCE North 64 14'28" East, a distance of 310.69 feet to a found
4 Transcontinental Gas Pipeline marker;
5 THENCE North 63 05'28" East, a distance of 1,168.64 feet to a found
6 Transcontinental Gas Pipeline marker;
7 THENCE North 51 13'39" East, a distance of 1,403.17 feet to a found
8 Transcontinental Gas Pipeline marker;
9 THENCE North 50 57'58" East, a distance of 529.36 feet to a found
10 Transcontinental Gas Pipeline marker;
11 THENCE North 62 47'11" East, a distance of 430.80 feet to a found
12 Transcontinental Gas Pipeline marker;
13 THENCE North 62 47'11" East, a distance of 271.92 feet, more or
14 less, to the West or southwest bank of the West Fork of the San
15 Jacinto River.

16 PIPELINE MARKERS LOCATED: FEBRUARY 14, 2003

17 GROSS ACREAGE SPECIFIED IN THIS DESCRIPTION IS THE RESULT OF
18 PLANIMETRIC METHODS FROM THE MAEDAN, TEXAS QUADRANGLE, 1995, 7.5
19 MINUTE SERIES, (TOPOGRAPHIC MAP), AS PRODUCED BY THE UNITED STATES
20 GEOLOGICAL SURVEY.

21 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries
22 and field notes of the district form a closure. A mistake in the
23 field notes or in copying the field notes in the legislative process
24 does not in any way affect the district's:

- 25 (1) organization, existence, or validity;
26 (2) right to issue any type of bond for the purposes
27 for which the district is created or to pay the principal of and

1 interest on a bond;

2 (3) right to impose or collect an assessment or tax; or

3 (4) legality or operation.

4 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The
5 district is created to serve a public use and benefit.

6 (b) All land and other property included in the district
7 will benefit from the improvements and services to be provided by
8 the district under powers conferred by Sections 52 and 52-a,
9 Article III, and Section 59, Article XVI, Texas Constitution, and
10 other powers granted under this Act.

11 (c) The creation of the district is in the public interest
12 and is essential to:

13 (1) further the public purposes of the development and
14 diversification of the economy of the state;

15 (2) eliminate unemployment and underemployment; and

16 (3) develop or expand transportation and commerce.

17 (d) The present and prospective traffic congestion in the
18 district and the safety of pedestrians and the limited availability
19 of funds require the promotion and development of public
20 transportation and pedestrian facilities and systems, and the
21 district will serve the public purpose of securing expanded and
22 improved transportation and pedestrian facilities and systems.

23 (e) The district will:

24 (1) promote the health, safety, and general welfare of
25 residents, employers, employees, visitors, and consumers in the
26 district and of the public;

27 (2) provide needed funding to preserve, maintain, and

1 enhance the economic health and vitality of the district as a
2 community; and

3 (3) promote the health, safety, welfare, and enjoyment
4 of the public by providing pedestrian ways and by landscaping and
5 developing certain areas in the district, which are necessary for
6 the restoration, preservation, and enhancement of scenic beauty.

7 (f) Pedestrian ways along or across a street, whether at
8 grade or above or below the surface, and street lighting, street
9 landscaping, and street art objects are parts of and necessary
10 components of a street and are considered to be a street or road
11 improvement.

12 (g) The district will not act as the agent or
13 instrumentality of any private interest even though the district
14 will benefit many private interests as well as the public.

15 SECTION 7. APPLICATION OF OTHER LAW. Chapter 311,
16 Government Code (Code Construction Act), applies to this Act.

17 SECTION 8. CONSTRUCTION OF ACT. (a) This Act shall be
18 liberally construed in conformity with the findings and purposes
19 set forth in this Act.

20 (b) If any provision of the general law conflicts with this
21 Act, this Act prevails.

22 SECTION 9. BOARD OF DIRECTORS; TERMS. (a) The district is
23 governed by a board of five elected directors who serve staggered
24 terms of four years.

25 (b) Elections for directors shall be held on the uniform
26 election date in May in even-numbered years.

27 SECTION 10. QUALIFICATIONS. (a) A person must meet the

1 qualifications of Section 375.063, Local Government Code, to serve
2 as a director of the district.

3 (b) Section 49.052, Water Code, does not apply to directors
4 of the district.

5 SECTION 11. POWERS OF DISTRICT. The district has all powers
6 and authority provided by the general laws on road districts and
7 road utility districts created under Section 52, Article III, Texas
8 Constitution, and conservation and reclamation districts and
9 municipal management districts created under Section 59, Article
10 XVI, Texas Constitution, including:

- 11 (1) Chapters 257 and 441, Transportation Code;
- 12 (2) Chapter 375, Local Government Code; and
- 13 (3) Chapters 49 and 54, Water Code.

14 SECTION 12. AGREEMENTS; GRANTS. (a) The district may make
15 an agreement with or accept a gift, grant, or loan from any person.

16 (b) The implementation of a project is a governmental
17 function or service for the purposes of Chapter 791, Government
18 Code.

19 SECTION 13. LAW ENFORCEMENT SERVICES. To protect the
20 public interest, the district may contract with a municipality or
21 county to provide law enforcement services in the district for a
22 fee.

23 SECTION 14. AUTHORITY TO IMPOSE AD VALOREM TAXES,
24 ASSESSMENTS, AND IMPACT FEES. The district may impose an ad valorem
25 tax, assessment, or impact fee and use the proceeds of the tax,
26 assessment, or impact fee for any district purpose, including the
27 payment of debt or other contractual obligations, or the payment of

1 maintenance and operating expenses.

2 SECTION 15. ELECTIONS REGARDING TAXES OR BONDS. (a) The
3 district must hold an election in the manner provided by Chapters 49
4 and 54, Water Code, to obtain voter approval before the district may
5 impose a maintenance tax or issue bonds payable from ad valorem
6 taxes.

7 (b) The board may include more than one purpose in a single
8 proposition at an election.

9 SECTION 16. MAINTENANCE TAX. (a) The district may impose
10 an annual ad valorem tax on taxable property in the district for any
11 district purpose, including to:

12 (1) maintain and operate the district, including
13 improvements constructed or acquired by the district; or

14 (2) provide a service.

15 (b) The board shall determine the tax rate.

16 SECTION 17. ASSESSMENTS; PETITION REQUIRED FOR FINANCING
17 SERVICES AND IMPROVEMENTS. (a) The board by resolution may impose
18 and collect an assessment for any purpose authorized by this Act.

19 (b) The board may not finance a service or improvement
20 project through an assessment under this Act unless a written
21 petition requesting that service or improvement has been filed with
22 the board. The petition must be signed by:

23 (1) the owners of a majority of the assessed value of
24 real property in the district that will be subject to the assessment
25 according to the most recent certified tax appraisal roll for the
26 county in which the property is located; or

27 (2) at least 25 owners of land in the district that

1 will be subject to the assessment, if more than 25 persons own land
2 in the district that will be subject to the assessment according to
3 the most recent certified tax appraisal roll for the county in which
4 the property is located.

5 (c) An assessment, a reassessment, or an assessment
6 resulting from an addition to or correction of the assessment roll
7 by the district, penalties and interest on an assessment or
8 reassessment, an expense of collection, and reasonable attorney's
9 fees incurred by the district:

10 (1) are a first and prior lien against the property
11 assessed;

12 (2) are superior to any other lien or claim other than
13 a lien or claim for county, school district, or municipal ad valorem
14 taxes; and

15 (3) are the personal liability of and charge against
16 the owners of the property even if the owners are not named in the
17 assessment proceeding.

18 (d) The lien is effective from the date of the board's
19 resolution imposing the assessment until the date the assessment is
20 paid. The board may enforce the lien in the same manner that the
21 board may enforce an ad valorem tax lien against real property.

22 SECTION 18. UTILITIES. The district may not impose an
23 impact fee or assessment on the property, including equipment,
24 rights-of-way, facilities, or improvements, of an electric utility
25 or a power generation company as defined by Section 31.002,
26 Utilities Code, a gas utility as defined by Sections 101.003 or
27 121.001, Utilities Code, or a telecommunications provider as

1 defined by Section 51.002, Utilities Code.

2 SECTION 19. USE AND ALTERATION OF PUBLIC WAYS. Section
3 375.093, Local Government Code, applies to the district.

4 SECTION 20. OBLIGATIONS. (a) The district may issue bonds
5 or other obligations payable in whole or in part from ad valorem
6 taxes, assessments, impact fees, revenue, grants, or other money of
7 the district, or any combination of those sources of money, to pay
8 for any authorized purpose of the district.

9 (b) In exercising the district's borrowing power, the
10 district may issue a bond or other obligation in the form of a bond,
11 note, certificate of participation or other instrument evidencing a
12 proportionate interest in payments to be made by the district, or
13 other type of obligation.

14 SECTION 21. INITIAL DIRECTORS. (a) The initial board
15 consists of the following persons:

16 Name of Director

17 Michelle Guerrero

18 Nancy Davis

19 Bill Baird

20 Esther Flores

21 John Yeung

22 (b) Of the initial directors, the terms of the first three
23 directors named in Subsection (a) expire on June 1, 2006, and the
24 terms of the last two directors named in Subsection (a) expire on
25 June 1, 2004.

26 (c) On the uniform election date in May 2004, the board
27 shall hold an election for the directors whose terms expire on June

1 1, 2004. On the uniform election date in May 2006, the board shall
2 hold an election for the directors whose terms expire on June 1,
3 2006.

4 (d) This section expires September 1, 2006.

5 SECTION 22. ADDITIONAL LEGISLATIVE FINDINGS. The
6 legislature finds that:

7 (1) proper and legal notice of the intention to
8 introduce this Act, setting forth the general substance of this
9 Act, has been published as provided by law, and the notice and a
10 copy of this Act have been furnished to all persons, agencies,
11 officials, or entities to which they are required to be furnished by
12 the constitution and laws of this state, including the governor,
13 who has submitted the notice and Act to the Texas Commission on
14 Environmental Quality;

15 (2) the Texas Commission on Environmental Quality has
16 filed its recommendations relating to this Act with the governor,
17 lieutenant governor, and speaker of the house of representatives
18 within the required time;

19 (3) the general law relating to consent by political
20 subdivisions to the creation of districts with conservation,
21 reclamation, and road powers and the inclusion of land in those
22 districts has been complied with; and

23 (4) all requirements of the constitution and laws of
24 this state and the rules and procedures of the legislature with
25 respect to the notice, introduction, and passage of this Act have
26 been fulfilled and accomplished.

27 SECTION 23. EFFECTIVE DATE. This Act takes effect

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1 immediately if it receives a vote of two-thirds of all the members
2 elected to each house, as provided by Section 39, Article III, Texas
3 Constitution. If this Act does not receive the vote necessary for
4 immediate effect, this Act takes effect September 1, 2003.