

By: Nichols

S.B. No. 1965

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 121; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8211 to read as follows:

CHAPTER 8211. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 121

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8211.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Montgomery County Municipal Utility District No. 121.

Sec. 8211.002. NATURE OF DISTRICT. (a) The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district, to the extent authorized by Section 8211.103 and Section 52, Article III, Texas Constitution, has road powers.

Sec. 8211.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

1 Sec. 8211.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All
2 land and other property in the district will benefit from the
3 improvements and services to be provided by the district.

4 Sec. 8211.005. INITIAL DISTRICT TERRITORY. (a) The
5 district is initially composed of the territory described by
6 Section 2 of the Act creating this chapter.

7 (b) The boundaries and field notes contained in Section 2 of
8 the Act creating this chapter form a closure. A mistake in the
9 field notes or in copying the field notes in the legislative process
10 does not affect the district's:

11 (1) organization, existence, or validity;

12 (2) right to issue any type of bond for a purpose for
13 which the district is created or to pay the principal of and
14 interest on the bond;

15 (3) right to impose an assessment or tax; or

16 (4) legality or operation.

17 [Sections 8211.006-8211.050 reserved for expansion]

18 SUBCHAPTER B. BOARD OF DIRECTORS

19 Sec. 8211.051. GOVERNING BODY; TERMS. (a) The district is
20 governed by a board of five elected directors.

21 (b) Directors serve staggered four-year terms.

22 Sec. 8211.052. INITIAL DIRECTORS. (a) The initial board
23 consists of:

24 (1) James D. Pell;

25 (2) Jeff Beard;

26 (3) Ed Jones;

27 (4) Vicki Fullerton; and

1 (5) Sandi La Plant.

2 (b) Unless the initial board agrees otherwise, the initial
3 directors shall draw lots to determine which two shall serve until
4 the first regularly scheduled election of directors and which three
5 shall serve until the second regularly scheduled election of
6 directors.

7 (c) This section expires September 1, 2014.

8 [Sections 8211.053-8211.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8211.101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 8211.102. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 8211.103. ROAD PROJECTS. (a) Under Section 52,
19 Article III, Texas Constitution, the district may finance,
20 construct, or acquire a road project as provided by this section.

21 (b) The district shall employ or contract with a licensed
22 engineer to certify whether a proposed road project meets the
23 criteria for a thoroughfare, arterial, or collector road of:

24 (1) a county in whose jurisdiction the proposed road
25 project is located; or

26 (2) a municipality in whose corporate limits or
27 extraterritorial jurisdiction the proposed road project is

1 located.

2 (c) The district may finance, construct, or acquire a road
3 that has been certified by the licensed engineer as a thoroughfare,
4 arterial, or collector road, or any improvements in aid of the
5 certified road.

6 (d) A road project must be located:

7 (1) in the district; or

8 (2) in another municipal utility district that serves
9 a master planned community the district also serves.

10 (e) A road project must meet all applicable standards,
11 regulations, ordinances, or orders of:

12 (1) each municipality in whose corporate limits or
13 extraterritorial jurisdiction the road project is located; and

14 (2) each county in which the road project is located if
15 the road project is not located in the corporate limits of a
16 municipality.

17 (f) The district may, with the consent of the municipality
18 or county, convey a completed road project to:

19 (1) a municipality in whose corporate limits or
20 extraterritorial jurisdiction the road project is located; or

21 (2) a county in which the road project is located.

22 Sec. 8211.104. COMPLIANCE WITH MUNICIPAL CONSENT
23 RESOLUTION. The district shall comply with all applicable
24 requirements of any resolution, adopted by the governing body of a
25 municipality under Section 54.016, Water Code, that consents to the
26 creation of the district or to the inclusion of land in the
27 district.

1 Sec. 8211.105. RECREATIONAL FACILITIES; LIMIT ON EMINENT
2 DOMAIN POWER. (a) In this section, "recreational facilities" and
3 "develop and maintain" have the meanings assigned by Section
4 49.462, Water Code.

5 (b) The district may develop and maintain recreational
6 facilities.

7 (c) The district may not, for the development or maintenance
8 of a recreational facility, acquire by condemnation land, an
9 easement, or other property inside or outside the district.

10 [Sections 8211.106-8211.150 reserved for expansion]

11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

12 Sec. 8211.151. ELECTIONS REGARDING TAXES OR BONDS.

13 (a) The district may issue, without an election, bonds and other
14 obligations secured by revenue or contract payments from a source
15 other than ad valorem taxation.

16 (b) The district must hold an election in the manner
17 provided by Chapters 49 and 54, Water Code, to obtain voter approval
18 before the district may impose an ad valorem tax or issue bonds
19 payable from ad valorem taxes.

20 (c) The district may not issue bonds payable from ad valorem
21 taxes to finance a road project unless the issuance is approved by a
22 vote of a two-thirds majority of district voters voting at an
23 election held for that purpose.

24 Sec. 8211.152. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 8211.151, the district
26 may impose an operation and maintenance tax on taxable property in
27 the district as provided by Chapter 49.107, Water Code.

1 (b) The board shall determine the tax rate. The rate may not
2 exceed the rate approved at the election.

3 [Sections 8211.153-8211.200 reserved for expansion]

4 SUBCHAPTER E. BONDS

5 Sec. 8211.201. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, grants, or other district money, or any combination of
9 those sources, to pay for any authorized district purpose.

10 Sec. 8211.202. BONDS FOR ROAD PROJECTS. At the time of
11 issuance, the total principal amount of a bond, note, or other
12 obligation issued or incurred to finance a road project may not
13 exceed one-fourth of the assessed value of real property in the
14 district according to the most recent certified tax appraisal roll
15 for Montgomery County.

16 Sec. 8211.203. BONDS FOR RECREATIONAL FACILITIES. If
17 authorized at an election under Section 8211.151, the district may
18 issue bonds payable from ad valorem taxes to pay for the development
19 and maintenance of recreational facilities.

20 Sec. 8211.204. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
21 the time bonds or other obligations payable wholly or partly from ad
22 valorem taxes are issued:

23 (1) the board shall impose a continuing direct annual
24 ad valorem tax, without limit as to rate or amount, for each year
25 that all or part of the bonds are outstanding; and

26 (2) the district annually shall impose an ad valorem
27 tax on all taxable property in the district in an amount sufficient

1 to:

2 (A) pay the interest on the bonds or other
3 obligations as the interest becomes due;

4 (B) create a sinking fund for the payment of the
5 principal of the bonds or other obligations when due or the
6 redemption price at any earlier required redemption date; and

7 (C) pay the expenses of imposing the taxes.

8 SECTION 2. The Montgomery County Municipal Utility District
9 No. 121 initially includes all the territory contained in the
10 following area:

11 Being 503.169 acres of land located in the Archibald Hodge Survey,
12 Abstract 18, the James Pevehouse Survey, Abstract 29, and the James
13 Hodge Survey, Abstract 19, Montgomery County, Texas, more
14 particularly being a portion of that certain called 934.56 acre
15 tract (described as Tract I) conveyed to Woodforest Partners, L.P.,
16 by instrument of record under File No. 2006-103723, Official Public
17 Records of Real Property at Montgomery County, Texas
18 (M.C.O.P.R.R.P.), a portion of that certain called 379.05 acre
19 tract conveyed to Woodforest Partners, L.P., by instrument of
20 record under File No. 2006-138302, M.C.O.P.R.R.P., and a portion of
21 that certain called 79.964 acre tract conveyed to Woodforest
22 Partners, L.P., by instrument of record under File No. 2006-138300,
23 M.C.O.P.R.R.P.; said 508.169 acres being more particularly
24 described by metes and bounds as follows; all bearings referenced
25 to Fish Creek Thoroughfare Phase II (150-foot wide), a plat of
26 record in Cabinet P, Sheets 62-63, Map Records of Montgomery
27 County, Texas (M.C.M.R.);

1 Commencing at the most southerly southeast corner of aforementioned
2 934.56 acres;

3 Thence, with a southerly line of said 934.56 acres North 16° 06' 05"
4 East, 590.56 feet to a point for corner, being on the approximate
5 Extra Territorial Jurisdiction (ETJ) line of the City of Conroe;

6 Thence, with said approximate ETJ line, the following seven (7)
7 courses:

8 1. North 14° 27' 12" West, 907.51 feet to a point for corner;

9 2. North 54° 27' 11" West, 1183.02 feet to a point for corner;

10 3. North 47° 20' 57" West, 1488.94 feet to a point for corner;

11 4. North 44° 27' 11" West, 1840.73 feet to a point for corner;

12 5. North 34° 31' 09" West, 2154.68 feet to a point for corner;

13 6. North 24° 27' 12" West, 1840.73 feet to a point for corner;

14 7. North 88° 10' 11" West, 1714.80 feet to a point for corner on the
15 west line of aforementioned 379.05 acre tract;

16 Thence, with said west line, North 02° 36' 31" West, 2413.24 feet to
17 a point for corner being the northwest corner of said 379.05 acre
18 tract;

19 Thence, with the north line of said 379.05 acre tract, North 87° 14'
20 13" East, 2378.09 feet to a point for corner being the northeast
21 corner of said 379.05 acre tract;

22 Thence, with an easterly line of said 379.05 acre tract the
23 following three (3) courses:

24 1. South 26° 58' 02" East, 1475.70 feet to a point for corner;

25 2. South 61° 26' 48" West, 291.13 feet to a point for corner;

26 3. South 03° 37' 40" East, 2383.97 feet to a point for corner being a
27 re-entrant corner of said 379.05 acre tract;

1 Thence, with a northerly line of said 379.05 acre tract, North 88° 06'
2 57" East, at 150.88 feet pass the northwest corner of
3 aforementioned 79.964 acre tract, and continuing with the north
4 line of said 79.964 acre tract in all a distance of 1901.36 feet to a
5 point for corner being the northeast corner of said 79.964 acre
6 tract;

7 Thence, with the east line of said 79.964 acre tract, South 03° 41'
8 03" East, 1991.72 feet to a point for corner being on the north line
9 of aforementioned 934.56 acre tract, same being the common line of
10 aforementioned James Pevehouse Survey and the James Hodge Survey;

11 Thence, with said north line and said common survey line, North 87°
12 28' 47" East, 3370.54 feet to a point for corner being the northeast
13 corner of said 934.56 acre tract;

14 Thence, leaving said common survey line, with an easterly line of
15 said 934.56 acre tract, the following three courses:

- 16 1. South 03° 48' 35" East, 2498.90 feet to a point for corner;
- 17 2. South 53° 30' 25" West, 944.06 feet to a point for corner;
- 18 3. South 16° 06' 05" West, 1306.36 feet to the POINT OF BEGINNING
19 and containing 503.169 gross acres of land.

20 SAVE AND EXCEPT however, the following tract of land:

21 Being 5.000 acres of land situated in James Hodge Survey, Abstract
22 19, Montgomery County, Texas, and being a portion the
23 aforementioned 934.56 acres, said 5.00 acres being more
24 particularly described by metes and bounds as follows;

25 COMMENCING at the northwest corner of aforementioned James Hodge
26 Survey, same being the northeast corner of the Archibald Hodge
27 Survey, A-18, Montgomery County, Texas, from which the northwest

1 corner of aforementioned 934.56 acre tract bears North 87° 28' 47"
2 East, 4443.02 feet;
3 Thence, with the common line of said James Hodge Survey, and
4 Archibald Hodge Survey, South 03° 46' 50" East, 300.00 feet to a
5 point;
6 Thence, leaving said common line, North 86° 13' 09" East, 3700.00
7 feet to the POINT OF BEGINNING;
8 Thence, North 86° 13' 09" East, 466.69 feet to a point for corner;
9 Thence, South 03° 46' 51" East, 466.69 feet to a point for corner;
10 Thence, South 86° 13' 09" West, 466.69 feet to a point for corner;
11 Thence, North 03° 46' 51" West, 466.69 feet to the POINT OF BEGINNING
12 and containing 5.000 acres of land.
13 Resulting a net area of 503.169 acres of land.

14 SECTION 3. (a) The legal notice of the intention to
15 introduce this Act, setting forth the general substance of this
16 Act, has been published as provided by law, and the notice and a
17 copy of this Act have been furnished to all persons, agencies,
18 officials, or entities to which they are required to be furnished
19 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
20 Government Code.

21 (b) The governor, one of the required recipients, has
22 submitted the notice and Act to the Texas Commission on
23 Environmental Quality.

24 (c) The Texas Commission on Environmental Quality has filed
25 its recommendations relating to this Act with the governor, the
26 lieutenant governor, and the speaker of the house of
27 representatives within the required time.

1 (d) All requirements of the constitution and laws of this
2 state and the rules and procedures of the legislature with respect
3 to the notice, introduction, and passage of this Act are fulfilled
4 and accomplished.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.