

1-1 By: Nichols S.B. No. 1966
1-2 (In the Senate - Filed March 26, 2007; March 27, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 12, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; April 12, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Montgomery County Municipal Utility
1-9 District No. 123; providing authority to impose a tax and issue
1-10 bonds; granting the power of eminent domain.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-13 Code, is amended by adding Chapter 8206 to read as follows:

1-14 CHAPTER 8206. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 123

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 8206.001. DEFINITIONS. In this chapter:

1-17 (1) "Board" means the district's board of directors.

1-18 (2) "Director" means a board member.

1-19 (3) "District" means the Montgomery County Municipal
1-20 Utility District No. 123.

1-21 Sec. 8206.002. NATURE OF DISTRICT. (a) The district is a
1-22 municipal utility district created under and essential to
1-23 accomplish the purposes of Section 59, Article XVI, Texas
1-24 Constitution.

1-25 (b) The district, to the extent authorized by Section
1-26 8206.103 and Section 52, Article III, Texas Constitution, has road
1-27 powers.

1-28 Sec. 8206.003. CONFIRMATION ELECTION REQUIRED. The board
1-29 shall hold an election to confirm the creation of the district as
1-30 provided by Section 49.102, Water Code.

1-31 Sec. 8206.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All
1-32 land and other property in the district will benefit from the
1-33 improvements and services to be provided by the district.

1-34 Sec. 8206.005. INITIAL DISTRICT TERRITORY. (a) The
1-35 district is initially composed of the territory described by
1-36 Section 2 of the Act creating this chapter.

1-37 (b) The boundaries and field notes contained in Section 2 of
1-38 the Act creating this chapter form a closure. A mistake in the
1-39 field notes or in copying the field notes in the legislative process
1-40 does not affect the district's:

1-41 (1) organization, existence, or validity;

1-42 (2) right to issue any type of bond for a purpose for
1-43 which the district is created or to pay the principal of and
1-44 interest on the bond;

1-45 (3) right to impose an assessment or tax; or

1-46 (4) legality or operation.

1-47 [Sections 8206.006-8206.050 reserved for expansion]

1-48 SUBCHAPTER B. BOARD OF DIRECTORS

1-49 Sec. 8206.051. GOVERNING BODY; TERMS. (a) The district is
1-50 governed by a board of five elected directors.

1-51 (b) Directors serve staggered four-year terms.

1-52 Sec. 8206.052. INITIAL DIRECTORS. (a) The initial board
1-53 consists of:

1-54 (1) Damon Sachs;

1-55 (2) Emily Robinson;

1-56 (3) Dan McDonald;

1-57 (4) Matthew May; and

1-58 (5) Jeffrey Zinn.

1-59 (b) Unless the initial board agrees otherwise, the initial
1-60 directors shall draw lots to determine which two shall serve until
1-61 the first regularly scheduled election of directors and which three
1-62 shall serve until the second regularly scheduled election of
1-63 directors.

1-64 (c) This section expires September 1, 2014.

[Sections 8206.053-8206.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8206.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8206.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8206.103. ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may finance, construct, or acquire a road project as provided by this section.

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

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

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

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

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

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

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

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

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

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

Sec. 8206.104. COMPLIANCE WITH MUNICIPAL CONSENT RESOLUTION. The district shall comply with all applicable requirements of any resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8206.105. RECREATIONAL FACILITIES; LIMIT ON EMINENT DOMAIN POWER. (a) In this section, "recreational facilities" and "develop and maintain" have the meanings assigned by Section 49.462, Water Code.

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

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

[Sections 8206.106-8206.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8206.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from a source other than ad valorem taxation.

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

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

Sec. 8206.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8206.151, the district may impose an operation and maintenance tax on taxable property in

3-1 the district as provided by Chapter 49.107, Water Code.

3-2 (b) The board shall determine the tax rate. The rate may not
3-3 exceed the rate approved at the election.

3-4 [Sections 8206.153-8206.200 reserved for expansion]

3-5 SUBCHAPTER E. BONDS

3-6 Sec. 8206.201. AUTHORITY TO ISSUE BONDS AND OTHER
3-7 OBLIGATIONS. The district may issue bonds or other obligations
3-8 payable wholly or partly from ad valorem taxes, impact fees,
3-9 revenue, grants, or other district money, or any combination of
3-10 those sources, to pay for any authorized district purpose.

3-11 Sec. 8206.202. BONDS FOR ROAD PROJECTS. At the time of
3-12 issuance, the total principal amount of a bond, note, or other
3-13 obligation issued or incurred to finance a road project may not
3-14 exceed one-fourth of the assessed value of real property in the
3-15 district according to the most recent certified tax appraisal roll
3-16 for Montgomery County.

3-17 Sec. 8206.203. BONDS FOR RECREATIONAL FACILITIES. If
3-18 authorized at an election under Section 8206.151, the district may
3-19 issue bonds payable from ad valorem taxes to pay for the development
3-20 and maintenance of recreational facilities.

3-21 Sec. 8206.204. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
3-22 the time bonds or other obligations payable wholly or partly from ad
3-23 valorem taxes are issued:

3-24 (1) the board shall impose a continuing direct annual
3-25 ad valorem tax, without limit as to rate or amount, for each year
3-26 that all or part of the bonds are outstanding; and

3-27 (2) the district annually shall impose an ad valorem
3-28 tax on all taxable property in the district in an amount sufficient
3-29 to:

3-30 (A) pay the interest on the bonds or other
3-31 obligations as the interest becomes due;

3-32 (B) create a sinking fund for the payment of the
3-33 principal of the bonds or other obligations when due or the
3-34 redemption price at any earlier required redemption date; and

3-35 (C) pay the expenses of imposing the taxes.

3-36 SECTION 2. The Montgomery County Municipal Utility District
3-37 No. 123 initially includes all the territory contained in the
3-38 following area:

3-39 BEING a 971.06 acre tract of land situated in the Charles E. Dugat
3-40 Survey, Abstract-171, the Thomas J. Nichols Survey, Abstract-397,
3-41 and the Matthew Cartwright Survey, Abstract-135 Montgomery County,
3-42 Texas, and being a part of a 1056.19 acre tract recorded in Clerk's
3-43 File No. 99056276, Real Property Records, Montgomery County, Texas,
3-44 and a 766.50 acre tract as recorded under Clerk's File No.
3-45 2001-076094, and being more particularly described as follows:

3-46 BEGINNING at a ½" iron rod, in the south boundary line of the said
3-47 1056.19 acre tract, also being the northwesterly corner of a 24.27
3-48 acre tract of land as recorded under Volume 254, Page 311, of the
3-49 Deed Records of Montgomery County, Texas;

3-50 THENCE S 02deg35'33" E, a distance of 4193.71' to a point for corner
3-51 being the southwesterly corner of a 7.14 acre tract of land as
3-52 recorded under Clerk's File No. 99057597, of the Real Property
3-53 Records of Montgomery County, Texas,

3-54 THENCE S 86deg47'39" W, a distance of 481.10' to a point for corner,
3-55 THENCE N 03deg12'21" W, a distance of 774.33' to a point for corner,
3-56 being the northerly northeast corner of a 96.20 acre tract of land
3-57 as recorded under Clerk's File No. 99026139, Real Property Records
3-58 of Montgomery County, Texas,

3-59 THENCE S 86deg47'39" W, a distance of 4894.23' to a point for
3-60 corner, being the northwesterly corner of the said 96.20 acre
3-61 tract, and being in the most easterly line of the said 1056.19 acre
3-62 tract,

3-63 THENCE N 03deg59'21" W, a distance of 1918.43' to a point for corner
3-64 being an interior angle point of a called 4285.30 acre tract of land
3-65 as recorded under Clerk's File No. 9722949, Real Property Records
3-66 of Montgomery County, Texas, and being a northwesterly corner of
3-67 the herein described tract;

3-68 THENCE N 86deg53'08" E, a distance of 1411.97' to a point for
3-69 corner,

4-1 THENCE N 03deg09'10" W, a distance of 1483.04' to a point for
4-2 corner,
4-3 THENCE N 86deg49'54" E, a distance of 2131.87' to a point for
4-4 corner,
4-5 THENCE N 00deg38'33" W, a distance of 181.03' to a point for corner,
4-6 being the southwesterly corner of Grand Lake Estates Section 10, a
4-7 subdivision recorded under Cabinet V, Sheet 124 of the Map Records
4-8 of Montgomery County, Texas,
4-9 THENCE S 89deg36'19" E, a distance of 342.01' to a point for corner,
4-10 THENCE S 72deg22'34" E, a distance of 63.23' to a point for corner,
4-11 THENCE N 89deg17'37" E, a distance of 251.57' to a point for corner,
4-12 being the southeasterly corner of Grand Lake Estates Section 10,
4-13 THENCE across the called 1056.91 acre tract as follows:
4-14 THENCE N 89deg17'39" E, a distance of 30.00' to a point for corner,
4-15 THENCE S 05deg56'27" W, a distance of 34.48' to a point for corner,
4-16 THENCE S 09deg16'49" E, a distance of 294.53' to a point for corner,
4-17 THENCE N 90deg00'00" E, a distance of 521.27' to a point for corner,
4-18 THENCE with a curve turning to the right, with an arc length of
4-19 85.98', having a radius of 160.00', a chord which bears N
4-20 15deg54'21" E, a chord length of 84.95',;
4-21 THENCE N 31deg17'59" E, a distance of 35.88' to a point for corner,
4-22 THENCE N 58deg42'01" W, a distance of 188.79' to a point for corner,
4-23 THENCE N 27deg04'02" E, a distance of 564.43' to a point for corner,
4-24 THENCE N 06deg18'45" W, a distance of 960.31' to a point for corner,
4-25 THENCE N 11deg17'41" E, a distance of 873.14' to a point for corner,
4-26 THENCE N 04deg21'27" W, a distance of 305.84' to a point for corner,
4-27 being a southeasterly corner of Grand Lake Estates, Section 7, a
4-28 subdivision recorded under Cabinet P, Sheet, 71, of the Map Records
4-29 of Montgomery County, Texas,
4-30 THENCE across the southerly line of Grand Lake Estates Section 7 as
4-31 follows:
4-32 THENCE S 80deg00'00" E, a distance of 255.64' to a point for corner,
4-33 THENCE N 10deg00'00" E, a distance of 75.46' to a point for corner,
4-34 THENCE S 80deg00'00" E, a distance of 527.93' to a point for corner,
4-35 THENCE N 13deg49'27" E, a distance of 371.17' to a point for corner,
4-36 THENCE N 68deg49'52" W, a distance of 481.42' to a point for corner,
4-37 THENCE N 02deg36'41" W, a distance of 463.18' to a point for corner,
4-38 THENCE N 39deg43'35" E, a distance of 66.51' to a point for corner,
4-39 THENCE S 60deg31'41" E, a distance of 513.34' to a point for corner,
4-40 THENCE S 76deg32'37" E, a distance of 240.79' to a point for corner,
4-41 THENCE N 42deg56'06" E, a distance of 514.37' to a point for corner,
4-42 THENCE N 13deg05'08" W, a distance of 197.92' to a point for corner,
4-43 THENCE N 83deg11'23" E, a distance of 248.21' to a point for corner,
4-44 THENCE S 13deg05'08" E, a distance of 16.86' to a point for corner,
4-45 THENCE N 83deg11'23" E, a distance of 241.60' to a point for corner,
4-46 THENCE N 06deg17'39" E, a distance of 63.17' to a point for corner,
4-47 THENCE N 34deg26'11" E, a distance of 66.65' to a point for corner,
4-48 THENCE N 01deg50'54" W, a distance of 38.31' to a point for corner,
4-49 THENCE N 05deg02'40" E, a distance of 135.34' to a point for corner,
4-50 THENCE N 83deg11'23" E, a distance of 46.95' to a point for corner,
4-51 THENCE S 22deg45'31" E, a distance of 123.44' to a point for corner,
4-52 THENCE S 46deg07'36" E, a distance of 85.93' to a point for corner,
4-53 THENCE S 27deg13'26" E, a distance of 199.65' to a point for corner,
4-54 THENCE S 00deg28'34" W, a distance of 117.40' to a point for corner,
4-55 THENCE S 26deg34'06" W, a distance of 153.52' to a point for corner,
4-56 THENCE S 09deg43'52" E, a distance of 87.19' to a point for corner,
4-57 THENCE S 48deg01'24" E, a distance of 99.11' to a point for corner,
4-58 THENCE N 48deg26'34" E, a distance of 58.73' to a point for corner,
4-59 THENCE S 72deg47'01" E, a distance of 52.55' to a point for corner,
4-60 THENCE S 05deg40'46" W, a distance of 109.61' to a point for corner,
4-61 THENCE N 88deg51'58" E, a distance of 136.71' to a point for corner,
4-62 THENCE N 23deg45'12" E, a distance of 373.71' to a point for corner,
4-63 for the most easterly corner of Grand Lake Estates Section 7,
4-64 THENCE with a curve turning to the left, with an arc length of
4-65 142.52', having a radius of 330.00', a chord which bears S
4-66 76deg03'33" E, a chord length of 141.42',
4-67 THENCE N 88deg51'58" E, a distance of 703.56' to a point for corner
4-68 being the northwesterly corner of Grand Lake Estates Section 8, as
4-69 recorded under Cabinet R, Sheet 75, of the Map Records of Montgomery

5-1 County, Texas,
5-2 THENCE S 03deg57'41" E, along the westerly line of Grand Lake
5-3 Estates Section 8, a distance of 742.80' to a point for corner,
5-4 THENCE along the southerly line of Grand Lake Estates Section 8 as
5-5 follows:
5-6 THENCE S 83deg33'48" E, a distance of 279.69' to a point for corner,
5-7 THENCE S 23deg30'47" E, a distance of 390.65' to a point for corner,
5-8 THENCE S 66deg33'01" E, a distance of 359.88' to a point for corner,
5-9 THENCE N 81deg42'44" E, a distance of 742.77' to a point for corner,
5-10 THENCE S 34deg40'50" E, a distance of 327.59' to a point for corner,
5-11 THENCE N 88deg56'36" E, a distance of 2214.90' to a point for
5-12 corner,
5-13 THENCE S 02deg25'04" E, leaving the southerly line of Grand Lake
5-14 Estates Section 8, a distance of 3330.73' to a point for corner in
5-15 the northerly line of a 30.00 acre tract of land as recorded under
5-16 Clerk's File No. 9736509, of the Real Property Records of
5-17 Montgomery County, Texas,
5-18 THENCE S 86deg48'56" W, a distance of 3747.25' to a point for
5-19 corner, in the northerly line of a 29.08 acre tract of land as
5-20 recorded under Clerk's File No. 9638969, of the Real Property
5-21 Records of Montgomery County, Texas, and being the southwesterly
5-22 corner of the said 766.50 acre tract,
5-23 THENCE N 04deg09'18" W, a distance of 1473.34' to a point for
5-24 corner, being the northeasterly corner of a 24.77 acre tract of land
5-25 as recorded under Clerk's File No. 9672346, of the Real Property
5-26 Records of Montgomery County, Texas, and being the southeasterly
5-27 corner of the said 1056.19 acre tract,
5-28 THENCE S 87deg18'57" W, along the southerly line of the said
5-29 1056.19 acre tract, a distance of 1619.19' to a point for corner,
5-30 being the northwesterly corner of the said 24.77 acre tract, and
5-31 being the northeasterly corner of the said 24.27 acre tract,
5-32 THENCE S 87deg35'34" W, a distance of 1612.68', back to the POINT OF
5-33 BEGINNING, and containing 971.06 acres of land.

5-34 SECTION 3. (a) The legal notice of the intention to
5-35 introduce this Act, setting forth the general substance of this
5-36 Act, has been published as provided by law, and the notice and a
5-37 copy of this Act have been furnished to all persons, agencies,
5-38 officials, or entities to which they are required to be furnished
5-39 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-40 Government Code.

5-41 (b) The governor, one of the required recipients, has
5-42 submitted the notice and Act to the Texas Commission on
5-43 Environmental Quality.

5-44 (c) The Texas Commission on Environmental Quality has filed
5-45 its recommendations relating to this Act with the governor, the
5-46 lieutenant governor, and the speaker of the house of
5-47 representatives within the required time.

5-48 (d) All requirements of the constitution and laws of this
5-49 state and the rules and procedures of the legislature with respect
5-50 to the notice, introduction, and passage of this Act are fulfilled
5-51 and accomplished.

5-52 SECTION 4. This Act takes effect immediately if it receives
5-53 a vote of two-thirds of all the members elected to each house, as
5-54 provided by Section 39, Article III, Texas Constitution. If this
5-55 Act does not receive the vote necessary for immediate effect, this
5-56 Act takes effect September 1, 2007.

5-57 * * * * *