

By: Parker

H.B. No. 3223

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the East Denton County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited 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 8312 to read as follows:

CHAPTER 8312. EAST DENTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8312.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the East Denton County Municipal Utility District No. 1.

Sec. 8312.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8312.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8312.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8312.003 until each municipality in whose corporate limits or

1 extraterritorial jurisdiction the district is located has
2 consented by ordinance or resolution to the creation of the
3 district and to the inclusion of land in the district.

4 Sec. 8312.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
5 The district is created to serve a public purpose and benefit.

6 (b) The district is created to accomplish the purposes of:

7 (1) a municipal utility district as provided by
8 general law and Section 59, Article XVI, Texas Constitution; and

9 (2) Section 52, Article III, Texas Constitution, that
10 relate to the construction, acquisition, improvement, operation,
11 or maintenance of macadamized, graveled, or paved roads, or
12 improvements, including storm drainage, in aid of those roads.

13 Sec. 8312.006. INITIAL DISTRICT TERRITORY. (a) The
14 district is initially composed of the territory described by
15 Section 2 of the Act creating this chapter.

16 (b) The boundaries and field notes contained in Section 2 of
17 the Act creating this chapter form a closure. A mistake made in the
18 field notes or in copying the field notes in the legislative process
19 does not affect the district's:

20 (1) organization, existence, or validity;

21 (2) right to issue any type of bond for the purposes
22 for which the district is created or to pay the principal of and
23 interest on a bond;

24 (3) right to impose a tax; or

25 (4) legality or operation.

26 [Sections 8312.007-8312.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8312.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8312.052, directors serve
5 staggered four-year terms.

6 Sec. 8312.052. TEMPORARY DIRECTORS. (a) On or after
7 September 1, 2009, the owner or owners of a majority of the assessed
8 value of the real property in the district may submit a petition to
9 the Texas Commission on Environmental Quality requesting that the
10 commission appoint as temporary directors the five persons named in
11 the petition. The commission shall appoint as temporary directors
12 the five persons named in the petition.

13 (b) Temporary directors serve until the earlier of:

14 (1) the date permanent directors are elected under
15 Section 8312.003; or

16 (2) September 1, 2013.

17 (c) If permanent directors have not been elected under
18 Section 8312.003 and the terms of the temporary directors have
19 expired, successor temporary directors shall be appointed or
20 reappointed as provided by Subsection (d) to serve terms that
21 expire on the earlier of:

22 (1) the date permanent directors are elected under
23 Section 8312.003; or

24 (2) the fourth anniversary of the date of the
25 appointment or reappointment.

26 (d) If Subsection (c) applies, the owner or owners of a
27 majority of the assessed value of the real property in the district

1 may submit a petition to the commission requesting that the
2 commission appoint as successor temporary directors the five
3 persons named in the petition. The commission shall appoint as
4 successor temporary directors the five persons named in the
5 petition.

6 [Sections 8312.053-8312.100 reserved for expansion]

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8312.101. GENERAL POWERS AND DUTIES. The district has
9 the powers and duties necessary to accomplish the purposes for
10 which the district is created.

11 Sec. 8312.102. MUNICIPAL UTILITY DISTRICT POWERS AND
12 DUTIES. The district has the powers and duties provided by the
13 general law of this state, including Chapters 49 and 54, Water Code,
14 applicable to municipal utility districts created under Section 59,
15 Article XVI, Texas Constitution.

16 Sec. 8312.103. AUTHORITY FOR ROAD PROJECTS. Under Section
17 52, Article III, Texas Constitution, the district may design,
18 acquire, construct, finance, issue bonds for, improve, operate,
19 maintain, and convey to this state, a county, or a municipality for
20 operation and maintenance macadamized, graveled, or paved roads, or
21 improvements, including storm drainage, in aid of those roads.

22 Sec. 8312.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
23 project must meet all applicable construction standards, zoning and
24 subdivision requirements, and regulations of each municipality in
25 whose corporate limits or extraterritorial jurisdiction the road
26 project is located.

27 (b) If a road project is not located in the corporate limits

1 or extraterritorial jurisdiction of a municipality, the road
2 project must meet all applicable construction standards,
3 subdivision requirements, and regulations of each county in which
4 the road project is located.

5 (c) If the state will maintain and operate the road, the
6 Texas Transportation Commission must approve the plans and
7 specifications of the road project.

8 Sec. 8312.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
9 OR RESOLUTION. The district shall comply with all applicable
10 requirements of any ordinance or resolution that is adopted under
11 Section 54.016 or 54.0165, Water Code, and that consents to the
12 creation of the district or to the inclusion of land in the
13 district.

14 Sec. 8312.106. LIMITATION ON USE OF EMINENT DOMAIN. The
15 district may not exercise the power of eminent domain outside the
16 district to acquire a site or easement for:

- 17 (1) a road project authorized by Section 8312.103; or
18 (2) a recreational facility as defined by Section
19 49.462, Water Code.

20 [Sections 8312.107-8312.150 reserved for expansion]

21 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

22 Sec. 8312.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
23 district may issue, without an election, bonds and other
24 obligations secured by:

- 25 (1) revenue other than ad valorem taxes; or
26 (2) contract payments described by Section 8312.153.

27 (b) The district must hold an election in the manner

1 provided by Chapters 49 and 54, Water Code, to obtain voter approval
2 before the district may impose an ad valorem tax or issue bonds
3 payable from ad valorem taxes.

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

8 Sec. 8312.152. OPERATION AND MAINTENANCE TAX. (a) If
9 authorized at an election held under Section 8312.151, the district
10 may impose an operation and maintenance tax on taxable property in
11 the district in accordance with Section 49.107, Water Code.

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

14 Sec. 8312.153. CONTRACT TAXES. (a) In accordance with
15 Section 49.108, Water Code, the district may impose a tax other than
16 an operation and maintenance tax and use the revenue derived from
17 the tax to make payments under a contract after the provisions of
18 the contract have been approved by a majority of the district voters
19 voting at an election held for that purpose.

20 (b) A contract approved by the district voters may contain a
21 provision stating that the contract may be modified or amended by
22 the board without further voter approval.

23 [Sections 8312.154-8312.200 reserved for expansion]

24 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

25 Sec. 8312.201. AUTHORITY TO ISSUE BONDS AND OTHER
26 OBLIGATIONS. The district may issue bonds or other obligations
27 payable wholly or partly from ad valorem taxes, impact fees,

1 revenue, contract payments, grants, or other district money, or any
2 combination of those sources, to pay for any authorized district
3 purpose.

4 Sec. 8312.202. TAXES FOR BONDS. At the time the district
5 issues bonds payable wholly or partly from ad valorem taxes, the
6 board shall provide for the annual imposition of a continuing
7 direct ad valorem tax, without limit as to rate or amount, while all
8 or part of the bonds are outstanding as required and in the manner
9 provided by Sections 54.601 and 54.602, Water Code.

10 Sec. 8312.203. BONDS FOR ROAD PROJECTS. At the time of
11 issuance, the total principal amount of bonds or other obligations
12 issued or incurred to finance road projects and payable from ad
13 valorem taxes may not exceed one-fourth of the assessed value of the
14 real property in the district.

15 SECTION 2. The East Denton County Municipal Utility
16 District No. 1 initially includes all the territory contained in
17 the following area:

18 BEING a parcel or tract of land situated in the F. Wilkerson
19 Survey, Abstract No. 1411, the T.B. Cox Survey, Abstract No. 309,
20 the Carroll Jackson Survey, Abstract No. 1546, the Jacob Rue
21 Survey, Abstract No. 1109, and the Hiram Rue Survey, Abstract No.
22 1111, in the County of Denton, Texas, and being all of those tracts
23 of land described to Mike A. Myers Investment Holdings, LTD. by
24 deeds recorded in Clerk File No. 05-33382, Clerk File No. 05-33384,
25 and Clerk File No. 05-93340, Deed Records, Denton County, Texas,
26 and being more particularly described by metes and bounds as
27 follows:

1 BEGINNING at a point for corner in the approximate centerline
2 of Crutchfield Road, said point being at the Northeasterly corner
3 of a tract of land described to Tarsan Corp. by deed recorded in
4 Clerk File No. 02-108524, Deed Records, Denton County, Texas, and
5 being in the Southerly line of a tract of land described to
6 Affordable Housing Community by deed recorded in Clerk File No.
7 00-116799, Deed Records, Denton County, Texas, and also being at
8 the Northwesterly corner of said Mike A. Myers tract recorded in
9 Clerk File No. 05-33384;

10 THENCE South 89 deg. 23 min. 12 sec. East, departing the
11 easterly line of said Tarsan Corp. tract, following the Southerly
12 line of said Affordable Housing Community tract, the Southerly line
13 of a tract of land described to Jan Wiatrzyk by deed recorded in
14 Clerk File No. 03-93331, Deed Records, Denton County, Texas, the
15 Southerly line of a tract of land described to Jan M. & Margaret
16 Paliwoda by deed recorded in Clerk File No. 99-65880, Deed Records,
17 Denton County, Texas and following the Northerly line of said Mike
18 A. Myers tract recorded in Clerk File No. 05-33384, a distance of
19 1657.64 feet to a point for corner in the Westerly line of a said
20 Mike A. Myers tract recorded in Clerk File No. 05-33382;

21 THENCE North 00 deg. 44 min. 29 sec. East, departing the
22 Northerly line of said Mike A. Myers tract recorded in Clerk File
23 No. 05-33384 and following the Easterly line of said Jan M. &
24 Margaret Paliwoda tract, the Easterly line of a tract of land
25 described to Fashand Farm, LTD. by deed recorded in Clerk File No.
26 05-21653, Deed Records, Denton County, Texas, and following the
27 Westerly line of said Mike A. Myers tract recorded in Clerk File No.

1 05-33382, a distance of 858.60 feet to a point for corner in the
2 Southwesterly corner of a tract of land described to Rita L.
3 Sorrells by deed recorded in Clerk File No. 97-00903223, Deed
4 Records, Denton County, Texas;

5 THENCE South 89 deg. 36 min. 28 sec. East, departing the
6 Easterly line of said Fashand Farm, LTD. tract, following the
7 Southerly line of said Rita L. Sorrells tract, and the Northerly
8 line of said Mike A. Myers tract recorded in Clerk File No.
9 05-33382, a distance of 1759.25 feet to a point for corner at the
10 Northwesterly corner of a tract of land described to J.C. & Muriel
11 Jackson, ET AL by deed recorded in Clerk File No. 97-00903223, Deed
12 Records, Denton County, Texas;

13 THENCE South 00 deg. 29 min. 54 sec. West, departing the
14 Southerly line of said Rita L. Sorrells tract, following the
15 Westerly line of said J.C. & Muriel Jackson tract, and the Easterly
16 line of said Mike A. Myers tract recorded in Clerk File No.
17 05-33382, a distance of 2685.00 feet to a point for corner in the
18 Northerly line of a tract of land described to Sammie & John Carey
19 by deed recorded in Volume 2336, Page 541, Deed Records, Denton
20 County, Texas;

21 THENCE North 89 deg. 52 min. 58 sec. West, departing the
22 Westerly line of said J.C. & Muriel Jackson tract, following the
23 Northerly line of said Sammie & John Carey tract, and following the
24 Southerly line of said Mike A. Myers tract recorded in Clerk File
25 No. 05-33382, a distance of 527.67 feet to a point for corner;

26 THENCE South 01 deg. 34 min. 45 sec. West, following the
27 Westerly line of said Sammie & John Carey tract, and following the

1 Easterly line of said Mike A. Myers tract recorded in Clerk File No.
2 05-33382, a distance of 2985.51 feet to a point for corner in the
3 approximate centerline of Parvin Road;

4 THENCE North 88 deg. 18 min. 36 sec. West, departing the
5 Westerly line of said Sammie & John Carey tract, following the
6 approximate centerline of said Parvin Road, and following the
7 Southerly line of said Mike A. Myers tract recorded in Clerk File
8 No. 05-33382, a distance of 1163.45 feet to a point for corner in
9 the Easterly line of a tract of land described to Kim Family Living
10 Trust, LTD. by deed recorded in Clerk File No. 05-86220, Deed
11 Records, Denton County, Texas;

12 THENCE North 00 deg. 10 min. 15 sec. East, following the
13 Easterly line of said Kim Family Living Trust, LTD. tract, and
14 following the Westerly line of said Mike A. Myers tract recorded in
15 Clerk File No. 05-33382, a distance of 1849.15 feet to a point for
16 corner at the Southeasterly corner of said Mike A. Myers tract
17 recorded in Clerk File No. 05-33384;

18 THENCE North 89 deg. 31 min. 26 sec. West, departing the
19 Westerly line of said Mike A. Myers tract recorded in Clerk File No.
20 05-33382, and following the Northerly line of said Kim Family
21 Living Trust, LTD., and following the Southerly line said Mike A.
22 Myers tract recorded in Clerk File No. 05-33384, a distance of
23 1661.10 feet to a point for corner at the Northwesterly corner of a
24 tract of land described to Tim Chesney by deed recorded in Volume
25 1209, Page 434, Deed Records, Denton County, Texas, and being the
26 Southeasterly corner of a tract of land described to Alan G. &
27 Patrice F. Tankersly by deed recorded in Clerk File No. 03-172129,

1 Deed Records, Denton County, Texas, also being the Northwesterly
2 corner of said Kim Family Living Trust, LTD.;

3 THENCE North 00 deg. 35 min. 31 sec. East, departing the
4 Northerly line of a tract of said Kim Family Living Trust, LTD., and
5 following the Easterly line of said Alan G. & Patrice F. Tankersly
6 tract, the Easterly line of a tract of land described to Lee A.
7 Brown by deed recorded in Clerk File No. 03-122624, Deed Records,
8 Denton County, Texas, the Easterly line of County View Addition,
9 according to the Plat thereof recorded in Cabinet F, Page 267, Map
10 Records, Denton County, Texas, and following the Westerly line of
11 said Mike A. Myers tract recorded in Clerk File No. 05-33384, a
12 distance of 1539.85 feet to a point for corner at the Southwesterly
13 corner of said Mike A. Myers tract recorded in Clerk File No.
14 05-93340, also being the Northeasterly corner of said County View
15 Addition;

16 THENCE along a rotated bearing of North 89 deg. 54 min. 06
17 sec. West (Deed Call of South 89 deg. 17 min. 51 sec. West, as
18 described in said Mike A. Myers tract recorded in Clerk File No.
19 05-93340), departing the Westerly line of said Mike A. Myers tract
20 recorded in Clerk File No. 05-33384, following the Northerly line
21 of said County View Addition, and the following the Southerly line
22 of said Mike A. Myers tract recorded in Clerk File No. 05-93340, a
23 distance of 1300.80 feet to a point for corner at the Southeasterly
24 corner of a tract of land described to George N. Abdou by deed
25 recorded in Volume 928, Page 22, Deed Records, Denton County,
26 Texas;

27 THENCE along a rotated bearing of North 01 deg. 10 min. 22

1 sec. East (Deed Call of North 00 deg. 22 min. 19 sec. East, as
2 described in said Mike A. Myers tract recorded in Clerk File No.
3 05-93340), departing the Northerly line of said County View
4 Addition, following the Easterly line of said George N. Abdou
5 tract, and following the Westerly line of said Mike A. Myers tract
6 recorded in Clerk File No. 05-93340, a distance of 262.18 feet to a
7 point for corner at the Northeasterly corner of said George N. Abdou
8 tract;

9 THENCE along a rotated bearing of North 84 deg. 23 min. 17
10 sec. West (Deed Call of North 85 deg. 11 min. 20 sec. West, as
11 described in said Mike A. Myers tract recorded in Clerk File No.
12 05-93340), following the Northerly line of said George N. Abdou
13 tract, and following the Southerly line of said Mike A. Myers tract
14 recorded in Clerk File No. 05-93340, a distance of 518.00 feet to a
15 point for corner in the approximate Easterly line of F.M. 1385;

16 THENCE along a rotated bearing of North 02 deg. 09 min. 14
17 sec. East (Deed Call of North 01 deg. 21 min. 11 sec. East, as
18 described in said Mike A. Myers tract recorded in Clerk File No.
19 05-93340), departing the Northerly line of said George N. Abdou
20 tract, following the approximate Easterly line of said F.M. 1385,
21 and following the Westerly line of said Mike A. Myers tract recorded
22 in Clerk File No. 05-93340, a distance of 202.59 feet to a point for
23 corner in the Southerly line of said Tarsan Corp. tract;

24 THENCE along a rotated bearing of South 89 deg. 55 min. 12
25 sec. East (Deed Call of North 89 deg. 16 min. 45 sec. East, as
26 described in said Mike A. Myers tract recorded in Clerk File No.
27 05-93340), departing the approximate Easterly line of said F.M.

1 1385, following the Southerly line of said Tarsan Corp. tract, and
2 following the northerly line of said Mike A. Myers tract recorded in
3 Clerk File No. 05-93340, a distance of 1806.28 feet to a point for
4 corner at the Southwesterly corner of said Tarsan Corp. tract and
5 being in the Westerly line of said Mike A. Myers tract recorded in
6 Clerk File No. 05-33384;

7 THENCE North 00 deg. 19 min. 38 sec. East, departing the
8 Northerly line of said Mike A. Myers tract recorded in Clerk File
9 No. 05-93340, following the Easterly line of said Tarsan Corp.
10 tract, and following the Westerly line of said Mike A. Myers tract
11 recorded in Clerk File No. 05-33384, a distance of 887.51 feet to
12 the POINT OF BEGINNING and containing 320.4 acres of land, more or
13 less.

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 September 1, 2009.