86R28448 TSR-F

By:  Zaffirini S.B. No. 2558

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Lone Oak Farm Municipal Utility District; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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

SECTION 1.  Subtitle E, Title 6, Special District Local Laws Code, is amended by adding Chapter 7888 to read as follows:

CHAPTER 7888. LONE OAK FARM MUNICIPAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7888.0101.  DEFINITIONS. In this chapter:

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

(2)  "Commission" means the Texas Commission on Environmental Quality.

(3)  "Director" means a board member.

(4)  "District" means the Lone Oak Farm Municipal Utility District.

Sec. 7888.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7888.0103.  CONFIRMATION AND DIRECTOR 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. 7888.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7888.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 7888.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 7888.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1)  organization, existence, or validity;

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

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7888.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 7888.0202, directors serve staggered four-year terms.

Sec. 7888.0202.  TEMPORARY DIRECTORS. (a) On or after September 1, 2019, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 7888.0103; or

(2)  September 1, 2023.

(c)  If permanent directors have not been elected under Section 7888.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1)  the date permanent directors are elected under Section 7888.0103; or

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

(d)  If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7888.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7888.0302.  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. 7888.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7888.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b)  If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

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

Sec. 7888.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 7888.0306.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7888.0401.  ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1)  revenue other than ad valorem taxes; or

(2)  contract payments described by Section 7888.0403.

(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 the district voters voting at an election held for that purpose.

Sec. 7888.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7888.0401, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 7888.0403.  CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7888.0501.  AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7888.0502.  TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7888.0503.  BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2.  The Lone Oak Farm Municipal Utility District initially includes all the territory contained in the following area:

BEING approximately 204.889 Acres, situated in the A. M. Esnaurizar Survey, Abstract Number 20, Guadalupe County, Texas, being a portion of a 125.3 Acres, called First Tract and 80.7 Acres, called Second Tract, described in a Deed to Louis C. Heinemeyer and wife, Annie Heinemeyer, as recorded in Volume 234, Page 559 of the Official Public Records of Guadalupe County, Texas; said 204.889 Acres being more fully described by metes and bounds as follows;

Beginning, at a 1/2 Inch Iron Rod found, on the South Right-of-Way line of Texas F M 758, the Northwest corner of Lot 1, Karens Park Subdivision, as recorded in Volume 7, Page 16 of the Map and Plat Records of Guadalupe County, Texas, the East line of the said 125.3 Acre tract, for the Northeast corner of this tract;

Thence, South 0°36'52" East, departing the said South Right-of-Way, with the East line of the said 125.3 Acre tract, at 1601.04 Feet, pass a 1 Inch Iron Pipe Found, 0.68 feet Right of line, in all 4780.09 Feet, to a 1/2 Inch Iron Rod, with Orange Plastic Cap stamped "Urban Civil" set, on the apparent North Right-of-Way of Harborth Road (also known as Guadalupe County Road Number 125), for the Southeast corner of this tract, from whence a 1/2 Inch Iron Rod found, for the Southwest corner of a 6.088 acre tract, described in a Deed from Vicki S. Hartwick to Lori Katcsmorak, as recorded in Volume 4178, Page 816 of the said Official Public Records, bears North 89°38'09" East, 669.57 Feet;

Thence, North 89°06'52" West, with the said apparent North Right-of-Way, 1138.89 Feet, to a 1/2 Inch Iron Rod, with Orange Plastic Cap stamped "Urban Civil" set, on the East line of the said 80.7 Acre tract, the West line of the said 125.3 Acre tract, for a corner of this tract;

Thence, North 88°47'14" West, continuing with the said apparent North Right-of-Way, at 179.26 feet, pass a 1/2 Inch Iron Rod found, 39.85 feet, Left of line, for a Northeast corner of a 36.8145 Acre tract, described in a Deed from Norman B. Harborth and Maxine Harborth to The Norman B. Harborth and Maxine Harborth Revocable Living Trust, as recorded in Volume 2464, Page 457 of the said Official Public Records, in all 736.07 Feet, to a 1/2 Inch Iron Rod, with Orange Plastic Cap stamped "Urban Civil" set, in the West line of the said 80.7 acre tract, for the Southwest corner of this tract, from whence, a 1/2 Inch Iron Rod found on the South Right-of-Way line of the said Harborth Rd. bears South 1°30'29" West, 39.74 Feet;

Thence, North 00°40'10" West, with the West line of the said 80.7 Acre tract, at 122.19 Feet, pass a 1/2 Inch Iron Rod found, 25.26 Feet, Left of line, for the Northeast corner of a 1.00 Acre tract, described in a deed from Walter Harborth and wife, Martha Harborth to Norman Harborth, as recorded in Volume 308, Page 150 of the said Official Public Records, in all 1821.25 Feet, to a 3 Inch Steel Pipe Fence Corner Post found, for the Southeast corner of a 46.7252 Acre tract, described in a Deed from Roger Lee Bormann, Brenda K. Varna and Audrey Diane Bormann to David Lehmberg and wife, Lori Gayle Lehmberg, as recorded in Volume 2785, Page 109 of the said Official Public Records, a corner of this tract;

Thence, North 00°46'04" West, with the East line of the said 46.7252 Acre tract, the West line of the said 80.7 Acre tract, 2901.00 Feet, to a 1/2 Inch Iron Rod, with Orange Plastic Cap stamped "Urban Civil" set, on the South Right-of-Way of the said Texas F M 758, for the Northwest corner of this tract, from whence, a 1/2 Inch Iron Rod found for the Northwest corner of a 42.0449 Acre tract, described in a Deed from Nelson Bormann to Bartoskewitz Farm Foundation, as recorded in Volume 2803, Page 363 of the said Official Public Records, bears South 89°14'45" West, 1333.00 Feet;

Thence, North 89°14'45" East, with the said South Right-of-Way, 1883.74 Feet, to the Point of Beginning, containing 204.889 Acres (8,924,975 Square Feet) of Land, more or less.

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

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

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

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

SECTION 4.  This Act takes effect September 1, 2019.