

By: Bell of Montgomery

H.B. No. 2837

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 201; granting a limited power of eminent domain; 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 F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8019 to read as follows:

CHAPTER 8019. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.

201

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8019.0101. 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 Montgomery County Municipal Utility District No. 201.

Sec. 8019.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8019.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 8019.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 8019.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 8019.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) The district is created to serve a public purpose and benefit.

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

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

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

17 Sec. 8019.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

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

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 8019.0201. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8019.0202, directors
7 serve staggered four-year terms.

8 Sec. 8019.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Rose Ann Hancock;

11 (2) Kimberly Newman;

12 (3) Morgan L. Horvitz;

13 (4) Gigi Zientek; and

14 (5) Michelle McCormick.

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

16 (1) the date permanent directors are elected under
17 Section 8019.0103; or

18 (2) the fourth anniversary of the effective date of
19 the Act enacting this chapter.

20 (c) If permanent directors have not been elected under
21 Section 8019.0103 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 8019.0103; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

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

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8019.0301. GENERAL POWERS AND DUTIES. The district
11 has the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 8019.0302. 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. 8019.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. 8019.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

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

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

10 Sec. 8019.0305. COMPLIANCE WITH MUNICIPAL CONSENT
11 ORDINANCE OR RESOLUTION. The district shall comply with all
12 applicable requirements of any ordinance or resolution that is
13 adopted under Section 54.016 or 54.0165, Water Code, and that
14 consents to the creation of the district or to the inclusion of land
15 in the district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8019.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
18 The district may issue, without an election, bonds and other
19 obligations secured by:

- 20 (1) revenue other than ad valorem taxes; or
21 (2) contract payments described by Section 8019.0403.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 8019.0402. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8019.0401, the
5 district may impose an operation and maintenance tax on taxable
6 property in the district in accordance with Section 49.107, Water
7 Code.

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

10 Sec. 8019.0403. CONTRACT TAXES. (a) In accordance with
11 Section 49.108, Water Code, the district may impose a tax other than
12 an operation and maintenance tax and use the revenue derived from
13 the tax to make payments under a contract after the provisions of
14 the contract have been approved by a majority of the district voters
15 voting at an election held for that purpose.

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

19 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

20 Sec. 8019.0501. AUTHORITY TO ISSUE BONDS AND OTHER
21 OBLIGATIONS. The district may issue bonds or other obligations
22 payable wholly or partly from ad valorem taxes, impact fees,
23 revenue, contract payments, grants, or other district money, or any
24 combination of those sources, to pay for any authorized district
25 purpose.

26 Sec. 8019.0502. TAXES FOR BONDS. At the time the district
27 issues bonds payable wholly or partly from ad valorem taxes, the

1 board shall provide for the annual imposition of a continuing
2 direct ad valorem tax, without limit as to rate or amount, while all
3 or part of the bonds are outstanding as required and in the manner
4 provided by Sections 54.601 and 54.602, Water Code.

5 Sec. 8019.0503. BONDS FOR ROAD PROJECTS. At the time of
6 issuance, the total principal amount of bonds or other obligations
7 issued or incurred to finance road projects and payable from ad
8 valorem taxes may not exceed one-fourth of the assessed value of the
9 real property in the district.

10 SECTION 2. The Montgomery County Municipal Utility District
11 No. 201 initially includes all the territory contained in the
12 following area:

13 TRACT I:

14 Being 104.5 acres of land located in the Ebenezer R. Hale
15 Survey, Abstract 264, Montgomery County, Texas, more particularly
16 being all of that certain called 104.52 acre tract described in deed
17 to Anthony Comer and Nichole Comer by an instrument of record under
18 Document Number 2012093908 in the Official Public Records of
19 Montgomery County, Texas (O.P.R.M.C.), said 104.5 acres being more
20 particularly described by metes and bounds as follows, all bearings
21 referenced to the Texas State Plane Coordinate System, South
22 Central Zone, NAD 83 (2010 EPOCH);

23 BEGINNING at a 1/2" iron rod found for a southeasterly corner
24 of said 104.52 acre tract, common to an east corner of Logtowne, a
25 subdivision of record in Cabinet E, Sheet 56-B, Plat Records of said
26 Montgomery County, Texas (P.R.M.C.) in the north right-of-way line
27 of Hardin Store Road (no deed of record found, 50' R.O.W. as shown

1 per Document Number 2013092954 O.P.R.M.C.);

2 Thence, South 86° 56' 39" West (called South 89° 34' 07" West -
3 722.41'), along the south line of said 104.52 acre tract, common to
4 a north line of said Logtowne, at 263.29 feet passing a 5/8" iron
5 rod found for the northeast corner of Lot 6, Block 1 of said
6 Logtowne, continuing for a total distance of 722.41 feet to the
7 southwest corner of said 104.52 acre tract, common to an angle
8 corner of said Logtowne;

9 Thence, North 02° 40' 07" West (called North 00° 03' 36" West -
10 2736.02'), along the west line of said 104.52 acre tract, common to
11 an east line of said Logtowne, the east line of a called 11.493 acre
12 tract described as Tract I, described in deed to James A. Kelly, a
13 married man and Sandra M. Kelly, his wife by an instrument of record
14 under Document Number 9427115, O.P.R.M.C., and the east line of a
15 called 3.325 acre tract described as Tract II, described in deed to
16 Rocio Rincon and husband Lucio M. Rincon by an instrument of record
17 under Document Number 2006065456, O.P.R.M.C., at 221.70 feet
18 passing the southeast corner of Lot 18, common to the northeast
19 corner of Lot 12 of Block 4 of said Logtowne, from which a 5/8" iron
20 rod found bears South 87° 19' 53" West - 0.70 feet, at 1898.16 feet
21 passing a 3/4" iron pipe found for the northeast corner of said
22 Logtowne common to the southeast corner of said 11.493 acre tract
23 which bears South 87° 19' 53" West - 1.73 feet, at 2384.62 feet
24 passing a 3/4" iron pipe found for the northeast corner of said
25 11.493 acre tract, common to the southeast corner of said 3.325 acre
26 tract, continuing for a total distance of 2736.25 feet, to a 1/2"
27 iron rod found for the northeast corner of said 3.325 acre tract

1 common to the southeast corner of Britwood Estates, a subdivision
2 of record in Cabinet L, Sheet 119, P.R.M.C.;

3 Thence, North 02° 31' 44" West (called North 00° 06' 02" East -
4 1631.62'), continuing along the west line of said 104.52 acre
5 tract, common to the east line of said Britwood Estates, at 876.59
6 feet passing a 3/4" iron rod with cap stamped "HUFFMAN RPLS 1882",
7 continuing for a total distance of 1632.08 feet to a 5/8" iron rod
8 with cap stamped "EIG SURVEYING CO." found for the northeast corner
9 of said Britwood Estates, common to the northwest corner of said
10 104.52 acre tract, in the south line of a called 7.4654 acre tract
11 described in deed to Julissa Gonzalez and David Gonzalez, husband
12 and wife by an instrument of record under Document Number
13 2015115963, O.P.R.M.C.;

14 Thence, North 87° 24' 45" East (called South 89° 57' 51" East -
15 1043.28'), along the north line of said 104.52 acre tract, common to
16 the south line of said 7.4654 acre tract and the south line of a
17 called 24.944 acre tract described in deed to Michael Lawrence
18 Johnson by an instrument of record under Document Number
19 2011064873, O.P.R.M.C., at 318.91 feet passing the southeast corner
20 of said 7.4654 acre tract, from which a 5/8" iron rod with cap
21 stamped "EIG SURVEYING CO" bears North 02° 35' 15" West - 0.79 feet,
22 at 324.02 feet passing a found 1" iron pipe, which bears North 02°
23 35' 15" West - 0.89 feet, at 548.76 feet passing the southwest
24 corner of said 24.944 acre tract from which a 5/8" iron rod bears
25 South 02° 35' 15" East - 0.88 feet, continuing for a total distance
26 of 1044.43 feet to a 5/8" iron rod with cap stamped "LJA ENG" set for
27 the northeast corner of said 104.52 acre tract, common to the

1 southeast corner of said 24.944 acre tract, in the west line of Lot
2 4 of Rimwick Forest, Section 1, unrecorded subdivision, same being
3 a called 1.7759 acre tract described in deed to Harold F. Taylor by
4 an instrument of record under Document Number 2014118415,
5 O.P.R.M.C.;

6 Thence, South 03° 46' 24" East (called South 01° 13' 17" West -
7 1050.04'), along the east line of said 104.52 acre tract, the west
8 line of said Lot 4 of Rimwick Forest, Section 1, the west line of Lot
9 3 of Rimwick Forest, Section 1, unrecorded subdivision, same being
10 a called 1.859 acre tract described in deed Jo E. Shaw, Jr. by an
11 instrument of record under Document Number 8848911, O.P.R.M.C., the
12 west line of Lot 2 of Rimwick Forest, Section 1, unrecorded
13 subdivision, same being a called 2.444 acre tract described as
14 Tract 2 in deed to Scott Cobell and Charla Cobell Husband and wife
15 by an instrument of record under Document Number 2014045874,
16 O.P.R.M.C., and the west line of Tract Ten of Post Oak Forest,
17 unrecorded subdivision, same being a called 2.5062 acre tract
18 described in deed to Charles B. Stella, Jr. by an instrument of
19 record under Document Number 8914750, O.P.R.M.C., at 52.10 feet
20 passing a 1/2" iron rod found for the southwest corner of said
21 1.7759 acre tract, common to the northwest corner of said 1.859 acre
22 tract, at 328.28 feet passing the southwest corner of said 1.859
23 acre tract, common to the northwest corner of said 2.444 acre tract
24 from which a concrete monument bears South 86° 13' 36" West - 1.31
25 feet, continuing for a total distance of 1050.53 feet to a 5/8" iron
26 rod found for the southwest corner of said Tract Ten, common to the
27 northwest corner of Lot 11 of Post Oak Forest, unrecorded

1 subdivision, same being a called 0.91 acre tract described in deed
2 to Richard Gonzales, Jr. and Kalli Gonzalez by an instrument of
3 record under Document Number 201703455, O.P.R.M.C.;

4 Thence, South 03° 33' 29" East (called South 00° 55' 07" East -
5 969.39'), continuing along the east line of said 104.52 acre tract,
6 common to the west line of said Lot 11 of Post Oak Forest, the west
7 line of Tract 12 of Post Oak Forest, unrecorded subdivision, same
8 being a called 1.0329 acre tract described in deed to Richard
9 Gonzales, Jr. and Kalli Gonzalez by an instrument of record under
10 Document Number 2012058503, O.P.R.M.C., the west line of Tract 13
11 of Post Oak Forest, unrecorded subdivision, same being a called
12 1.0329 acre tract described in deed to Ralph W. Gates, Jr. and Audry
13 Giles Gates by an instrument of record under Document Number
14 2000-076555, O.P.R.M.C., the west line of Lot 14 of Post Oak Forest,
15 unrecorded subdivision, same being a called 1.02 acre tract
16 described in deed to Wendy J. De Four by an instrument of record
17 under Document Number 2017036615, O.P.R.M.C., and the west line of
18 a called 1.0206 acre tract described in deed to James Patterson and
19 Kimberly Patterson by an instrument of record under Document Number
20 2002099246, O.P.R.M.C., at 179.91 feet passing a 1/2" iron rod with
21 cap stamped "RPLS 4789" found for the southwest corner of Lot 11,
22 common to the northwest corner of Tract 12, at 359.66 feet passing a
23 5/8" iron rod inside a PVC pipe found for the southwest corner of
24 said Tract 12 and the northwest corner of said Tract 13, at 539.72
25 feet passing a 5/8" iron rod found for the southwest corner of said
26 Tract 13, common to the northwest corner of said Lot 14, at 689.37
27 feet passing a found 5/8" iron rod which bears South 86° 26' 31" West

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1 - 0.71 feet, continuing for a total distance of 969.25 feet to a
2 concrete monument found for the southwest corner of said 1.0206
3 acre tract and the northwest corner of a called 2.129 acre tract
4 described in deed to Lawrence E. Fogarty, III by an instrument of
5 record under Document Number 2014096065, O.P.R.M.C.;

6 Thence, South 02° 43' 13" West (called South 05° 18' 32" West -
7 413.66'), continuing along the east line of said 104.52 acre tract,
8 common to the west line of the said 2.129 acre tract, the west line
9 of a called 2.586 acre tract described in deed to Anthony Comer and
10 Nichole Comer by an instrument of record under Document Number
11 2012069670, O.P.R.M.C., at 302.47 feet passing a 5/8" iron rod with
12 cap stamped "KING 4503" found for the southwest corner of said 2.179
13 acre tract common to the northwest corner of said 2.586 acre tract,
14 continuing for a total distance of 413.66 feet to a 5/8" iron rod
15 with cap stamped "LJA ENG" set for the southwest corner of said
16 2.586 acre tract, common to the northwest corner of a called 1.160
17 acre tract described in deed to Jeffery Richard Ryfa by an
18 instrument of record under Document Number 9832631, O.P.R.M.C.;

19 Thence, South 02° 18' 58" East (called South 00° 17' 29" West -
20 1643.03'), continuing along the east line of said 104.52 acre
21 tract, common to the west line of said 1.160 acre tract, the west
22 line of a called 5.42 acre tract described in deed to Phillip L.
23 Hybner, Jr. and wife, Terri L. Hybner by an instrument of record
24 under Document Number 9138200, O.P.R.M.C., and the west line of a
25 called 2.5910 acre tract described in deed to Shannon Ray Gehring by
26 an instrument of record under Document Number 20130929545,
27 O.P.R.M.C., at 484.89 passing a found 1 1/4" iron pipe which bears

1 North 87° 41' 02" East - 2.87 feet, continuing for a total distance
2 of 1643.21 feet to a 3/4" iron pipe found for the southeast corner
3 of said 104.52 acre tract in the aforesaid north right-of-way line
4 of Hardin Store Road;

5 Thence, South 44° 42' 22" West, 424.52 feet (called South 47°
6 20' 53" West - 424.55') along the southeast line of said 104.52 acre
7 tract, common to said north right-of-way line to the POINT OF
8 BEGINNING and containing 104.5 acres of land.

9 TRACT II:

10 Being 0.4591 acre of land located in the Bartley Mury Survey,
11 Abstract 343, Montgomery County, Texas, more particularly being a
12 portion of that certain called 2.586 acre tract described in deed to
13 Anthony Comer and Nichole Comer by an instrument of record under
14 Document Number 2012069670, in the Official Public Records of
15 Montgomery County, Texas (O.P.R.M.C.), said 0.4591 acres being more
16 particularly described by metes and bounds as follows, all bearings
17 referenced to the Texas Coordinate System, South Central Zone, NAD
18 83 (2010 EPOCH);

19 BEGINNING at a 5/8" iron rod with cap stamped "LJA ENG"
20 previously set for the southwest corner of said 2.586 acre tract,
21 common to the northwest corner of that certain called 1.160 acre
22 tract described in deed to Jeffery Richard Ryfa by an instrument of
23 record under Document Number 9832631, O.P.R.M.C. and the northwest
24 corner of Hughes Lane (called 40 feet wide) described as a
25 right-of-way and easement for road purposes in Volume 545, Page 428
26 in the Deed Records of said Montgomery County, Texas (D.R.M.C.), in
27 the east line of that certain called 104.52 acre tract described in

1 deed to Anthony Comer and Nichole Comer by an instrument of record
2 under Document Number 2012093908, O.P.R.M.C.;

3 Thence, North 02° 43' 13" East (called North 04° 52' 00" East),
4 along the west line of said 2.586 acre tract, common to the east
5 line of said 104.52 acre tract, 111.25 feet to a 5/8" iron rod with
6 cap stamped "KING 4503" found for the most westerly southwest
7 corner of that certain called 2.129 acre tract described in deed to
8 Lawrence E. Fogarty, III by an instrument of record under Document
9 Number 2014096065, O.P.R.M.C.;

10 Thence, North 87° 36' 06" East (called South 89° 48' 19" East),
11 along the south line of said 2.129 acre tract, 77.50 feet to a 5/8"
12 iron rod with cap stamped "KING 4503" found for the beginning of a
13 non-tangent curve;

14 Thence, continuing along the south line of said 2.129 acre
15 tract, 185.86 feet (called 185.77 feet) along the arc of a
16 non-tangent curve to the right, having a radius of 134.40 feet, a
17 central angle of 79° 14' 04", and a chord which bears South 52° 04'
18 54" East (called South 49° 30' 29" East), 171.40 feet (called 171.33
19 feet) to a 5/8" iron rod with cap stamped "KING 4503" found for a
20 south corner of said 2.129 acre tract, in the north line of that
21 certain called 2.000 acre tract described in deed to Frank M. Hicks
22 by an instrument of record under Document Number 2008064981,
23 O.P.R.M.C. and the north line of the aforementioned Hughes Lane;

24 Thence, South 87° 37' 36" West (called South 89° 44' 55" West),
25 along the south line of said 2.586 acre tract, common to the north
26 line of said 2.000 acre tract, the north line of that certain called
27 1.069 acre tract described in deed to Alan Martinez and Erica

1 Martinez by an instrument of record under Document Number
2 2016000207, O.P.R.M.C., the north line of the aforesaid 1.160 acre
3 tract, and the north line of said Hughes Lane, passing at a distance
4 of 113.70 feet the common north corner of said 1.069 acre tract and
5 said 1.160 acre tract, from which a found 5/8" iron rod bears, South
6 02° 45' 39" East, 0.44 feet, continuing for a total distance of
7 218.12 feet to the POINT OF BEGINNING and containing 0.4591 acre of
8 land.

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

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

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

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

27 SECTION 4. (a) If this Act does not receive a two-thirds

1 vote of all the members elected to each house, Subchapter C, Chapter
2 8019, Special District Local Laws Code, as added by Section 1 of
3 this Act, is amended by adding Section 8019.0306 to read as follows:

4 Sec. 8019.0306. NO EMINENT DOMAIN POWER. The district may
5 not exercise the power of eminent domain.

6 (b) This section is not intended to be an expression of a
7 legislative interpretation of the requirements of Section 17(c),
8 Article I, Texas Constitution.

9 SECTION 5. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2021.