By:  Zaffirini S.B. No. 887

(In the Senate - Filed February 13, 2023; March 1, 2023, read first time and referred to Committee on Local Government; April 28, 2023, reported favorably by the following vote: Yeas 7, Nays 0; April 28, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Bettencourt       X

Springer          X

Eckhardt          X

Gutierrez                   X

Hall              X

Nichols           X

Parker                      X

Paxton            X

West              X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Maxwell Municipal Utility District No. 1; 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 7961 to read as follows:

CHAPTER 7961. MAXWELL MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7961.0101.  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 Maxwell Municipal Utility District No. 1.

Sec. 7961.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7961.0103.  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. 7961.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7961.0103 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. 7961.0105.  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. 7961.0106.  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. 7961.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 7961.0202, directors serve staggered four-year terms.

Sec. 7961.0202.  TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, 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 7961.0103; or

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

(c)  If permanent directors have not been elected under Section 7961.0103 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 7961.0103; 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. 7961.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7961.0302.  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. 7961.0303.  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. 7961.0304.  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. 7961.0305.  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.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7961.0401.  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 7961.0403.

(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. 7961.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7961.0401, 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. 7961.0403.  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. 7961.0501.  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. 7961.0502.  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. 7961.0503.  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 Maxwell Municipal Utility District No. 1 initially includes all the territory contained in the following area:

BEING A 1,044.73 ACRE TRACT IN OF THE C. WESTERFELD SURVEY, ABSTRACT NUMBER 324, THE J.H. FOLLEY SURVEY, ABSTRACT NUMBER 107, THE H. MCNEIL SURVEY, ABSTRACT NUMBER 199, AND THE W. BARBER SURVEY ABSTRACT NUMBER 48, CALDWELL COUNTY, TEXAS, SAID 1,044.73 ACRE TRACT BEING ALL OF A CALLED 1.9077 ACRE TRACT (KNOWN AS TRACT 3), A CALLED 141.205 ACRE TRACT (KNOWN AS TRACT 1) AND A 600.607 ACRE TRACT (KNOWN AS TRACT 2), DESCRIBED IN A DEED TO TACK REDWOOD PARTNERS, AS RECORDED IN DOCUMENT NUMBER 2021009027 OF THE OFFICIAL PUBLIC RECORDS OF CALDWELL COUNTY, TEXAS [O.P.R.C.C.T.], ALSO BEING ALL OF A CALLED 149.979 ACRE TRACT DESCRIBED IN A DEED TO DORIS STEUBING RECORDED IN DOCUMENT NUMBER 2019005265 [O.P.R.C.C.T.], AND ALL OF A CALLED 150.00 ACRE TRACT DESCRIBED IN A DEED TO KYRAN W. FEY JR., AND WIFE JUDY A. FEY RECORDED IN VOLUME 206, PAGE 627 [O.P.R.C.C.T.[, SAID 1,004.73 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found on the south right-of-way line of Highway 142 (deed of record not found) at the northeast corner of a called 25.977-acre tract described in a deed to Lawrence V. Bumb recorded in Volume 320, Page 296, Deed Records of Caldwell County, Texas [D.R.C.C.T.], and for the northwest corner of the said 1.9077-acre tract, same being for the POINT OF BEGINNING of the tract described herein;

THENCE with the south right-of-way line of the said Highway 142, and the north line of the said 1.9077-acre tract and the northwest line of the said 141.205-acre tract, the following three (3) courses and distances:

1)  N87°16'44"E, a distance of 785.16 feet to a concrete highway monument found for the most easterly corner of the said 1.9077-acre tract,

2)  N87° 18'58"E, a distance of 1585.93 feet to a concrete highway monument found for an angle corner of the tract described herein, and

3)  N87°20'00 'E, a distance of 73.38 feet to a fence post found for the most northwesterly corner of a called 86.278-acre tract conveyed to Straight Down LLC (deed of record not found, tax Parcel ID number 113768), same being for the most northerly corner of the said 141.205-acre tract and the tract described herein;

THENCE with the northeast line of the said 141.205-acre tract and the southwest line of the said 86.278-acre tract the following three (3) courses and distances:

1)  S40°44'58 'E, a distance of 896.28 feet to a 5/8-inch iron rod found for an angle corner,

2)  S48°48'24 'W, a distance of 468.42 feet to a 5/8-inch iron rod found for an angle corner, and

3)  S40°26'28"E, a distance of 2,795.99 feet to a 1/2-inch iron rod with cap stamped "Chap" found for the most southeasterly corner of the said 86.278-acre tract, and on a northwest line of the said 600.507-acre tract and an angle corner of the tract described herein;

THENCE N58°02'10"E, with the line common to the said 600.507-acre tract and the said 86.278-acre tract, a distance of 1,189.91 feet to a 4-inch iron pipe found on the southeast line of a called 2.78-acre tract conveyed to Frazier Land & Cattle Co. LLC., (deed of record not found, Tax Parcel ID 40622), for the southwest corner of a called 5.96-acre tract conveyed to Frazier Land & Cattle (deed of record not found, Tax Parcel ID 40623) and for a north corner of the said 600.507-acre tract and the tract described herein;

THENCE S33°23'09"E with the line common to the said 600.507-acre tract the said 5.96-acre tract, a called 7.07-acre tract described in a deed to Richard W. Castillion recorded in Document Number 2016-001683 [O.P.R.C.C.T.], a called 5.59-acre tract described in a deed to Clyde S. Arms & Tina M. McFerrin recorded in Volume 370, Page 843 [D.R.C.C.T.], a called 8.5-acre tract conveyed to Sabine Hinkle (deed of record not found, Tax Parcel ID 40627), and a called 340.368-acre tract described in a deed to LLTXLP LLC., recorded in Document Number 2021-005216 [O.P.R.C.C.T.] a distance of 4,230.64 feet to a 4-inch metal Fence Post found on the west line of the said 149.979-acre tract, and for the southeast corner of the said 340.368-acre tract and for an angle corner of the tract described herein;

THENCE N48°18'30"E, with the east line of the said 340.368-acre tract and the west line of the said 149.979-acre tract, a distance of 978.30 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found on the south right-of-way line of Tower Road (deed of record not found), at the northwest corner of the said 149.979-acre tract and for an angle corner of the tract described herein;

THENCE S28°41'54"E, with the south right-of-way line of the said Tower Road and the north line of the said 149.979-acre tract, a distance of 1,548.68 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found for the most northwesterly corner of a called 11.413-acre tract described in a deed to Stacey M. Sjogren recorded in Document Number 2021-000069 [O.P.R.C.C.T.];

THENCE with the east line of the said 149.979-acre tract and the west line of the said 11.413-acre tract and the west line of a called 11-acre tract described to Hernandez recorded in Document Number 2019-003033 [O.P.R.C.C.T.], the following 3 courses and distances:

1)  S54°09'43"W, a distance of 2,428.50 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found for an angle point of the said 11-acre tract, the said 149.979-acre tract and the tract described herein,

2)  S40°18'17"W, a distance of 145.04 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found for the most southwesterly corner of the said 11-acre tract, for an angle point of the said 149.979-acre tract and the tract described herein, and

3)  S49°47'47"E, a distance of 201.60 feet to a Fence Post found for a northwesterly corner of the said 150.00-acre tract, same being a southeasterly corner of the said 11-acre tract and an angle corner of the said 149.979-acre tract and the tract described herein;

THENCE N78°32'26"E, with the north line of the said 150.00-acre tract and the southeast line of the said 11-acre tract, a distance of 393.17 feet to a 1/2-inch iron rod found on the southeast line of the said 11-acre tract, for the most westerly corner of a called 26.166-acre tract described in a deed to Veterans Land Board recorded in Document Number 370-114820 [O.P.R.C.C.T.], and for an angle corner of the said 150.00-acre tract and the tract described herein;

THENCE S41°30'17"E, with the north line of the said 150.00-acre tract, the south line of the said 26.166-acre tract, and the south line of a called 5.00-acre tract described in a deed to Stairtown LTD., recorded in Volume 217, Page 713 [O.P.R.C.C.T.], a distance of 2,387.02 feet passing a 1/2-inch iron rod found at the southeast corner of the said 25.166-acre tract, same being at the southwest corner of the said 5.00-acre tract, and continuing a total distance of 3,234.01 feet to a fence post found on the west right-of-way line of Dickerson Road (deed of record not found), at the southeast corner of the said 5.00-acre tract, at the east corner of the said 150.00-acre tract and the tract described herein;

THENCE with the east line of the said 150.00-acre tract and the west right-of-way line of the said Dickerson Road, the following three (3) courses and distances:

1)  S48°36'10"W, a distance of 50.41 feet passing a 1/2-inch iron rod found, and continuing a total distance of 799.53 feet to an 8-inch wood Fence Post found for an angle corner,

2)  S48°34'49"W, a distance of 515.97 feet to an 8-inch wood Fence Post found for an angle corner, and

3)  S47°56'04"W, a distance of 545.47 feet to a 2-inch metal Fence Post found at the lower northeast corner of a called 150.00-acre tract described in a deed to Robert D. Norris recorded in Volume 392, Page 217 [O.P.R.C.C.T.], for the southeast corner of the said 150.00-acre tract (Fey Tract), and the tract described herein;

THENCE N41°29'29"W, with the south line of the said 150.00-acre tract (Fey Tract) and the north line of the said 150.00-acre tract (Norris Tract), a distance of 3,647.86 feet to a Fence Post found for the southwest corner of the said 150.00-acre tract (Fey Tract), same being on the east line of the said 149.979-acre tract and for an angle corner of the said 150.00-acre tract (Norris Tract) and the tract described herein;

THENCE with the lines common to the said 149.979-acre tract and the said 150.00-acre tract (Norris Tract), the following two (2) courses and distances:

1)  S51°24'05"W, a distance of 601.81 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found for the southeast corner of the said 149.979-acre tract, same being an angle corner of the said 150.00-acre tract (Norris Tract) and the tract described herein, and

2)  N38°40'27"W, a distance of 1254.84 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found on the east line of a called 150.4-acre tract conveyed to Capital Land Investments I LP (deed of record not found, Tax Parcel ID 103433), for the most westerly northwest corner of the said 150.00-acre tract (Norris Tract), at the southwest corner of the said 149.979-acre tract, and for an angle corner of the tract described herein;

THENCE N48°29'20"E, with the line common to the said 149.979-acre tract and the said 150.4-acre tract, a distance of 342.25 feet to a 1/2-inch iron rod with cap stamped "Hinkle" found for the northeast corner of the said 150.4-acre tract, for the southeast corner of the said 600.507-acre tract, and for an angle corner of the tract described herein;

THENCE N41°43'31"W, with the south line of the said 600.507-acre tract, the north line of the said 150.4-acre tract, and the north line of a called 251.37-acre tract described in a deed to Capital Land Investments I LP., recorded in Document Number 2020-003860 [O.P.R.C.C.T.], a distance of 9,229.35 feet to a 1/2-inch iron rod with cap stamped "Chap" found on the east right-of-way line of Railroad Street, for the most northerly corner of the said 251.37-are tract, same being the most westerly corner of the said 600.507-acre tract and the tract described herein;

THENCE with the east right-of-way line of the said Railroad Street and the west line of the said 600.507-acre tract the following two (2) courses and distances:

1)  N47°56'05"E, a distance of 346.41 feet to a fence post found for an angle corner, and

2)  N37°04'12"W, a distance of 12.70 feet to a fence post found for the south corner of the said 25.977-acre tract, same being an angle corner of the said 600.507-acre tract and the tract described herein;

THENCE with the east line of the said 25.977-acre tract and the west line of the said 600.507-acre tract the following five (5) courses and distances:

1)  N48°29'32"E, a distance of 638.15 feet to an 8-inch wood Fence Post found for an angle corner,

2)  N60°57'02"E, a distance of 77.24 feet an 8-inch wood Fence Post found for an angle corner,

3)  N45°38'08"E, a distance of 812.56 feet to a 4-inch metal pipe found for the most easterly corner of the said 25.977-acre tract,

4)  S58°09'22"W, a distance of 176.54 feet to a 1/2-inch iron rod found for an angle corner,

5)  N41°17'54"W, a distance of 297.33 feet to the POINT OF BEGINNING and containing 1,044.73-acres, more or less.

Basis of bearings is the Texas Coordinate System, South Central Zone [4204], NAD83 (2011), Epoch 2010. All distances are surface values and may be converted to grid by using the surface adjustment factor of 1.00012 using CP1 as point of origin.

Units: U.S. Survey Feet.

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.  (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7961, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7961.0306 to read as follows:

Sec. 7961.0306.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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