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January 30, 2019

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article No. 7106 2140 0000 7828 0435

County Judge and Commissioners Court
of Waller County
c/o The Honorable Carbett "Trey" J. Duhon
836 Austin Street, Suite 203
Hempstead, Texas 77445

Re: Proposed Legislation Creating the Waller County Municipal Utility District
No. 35

Dear Judge Duhon:

Pursuant to the provisions of Art. XVI, Section 59(e), of the Texas Constitution, we are delivering to you herewith a copy of a proposed bill to be introduced in the 86th Texas Legislature, Regular Session, 2019, relating to the creation of the Waller County Municipal Utility District No. 35.

The general substance of the proposed legislation is described in the caption provisions of the proposed bill; however, if you have any questions or need any additional information concerning this matter, please feel free to contact the undersigned at your convenience.

Sincerely,

SCHWARTZ, PAGE & HARDING, L.L.P.


Howard M. Cohen

Enclosures

cc: Representative Cecil Bell, District 3
Senator Lois Kolkhorst, District 18

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Waller County Municipal Utility
3 District No. 35; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to
5 impose assessments, fees and taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local
8 Laws Code, is amended by adding Chapter _____ to read as follows:

9 CHAPTER _____ . WALLER COUNTY MUNICIPAL UTILITY DISTRICT

10 NO. 35

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. .001. DEFINITIONS. In this chapter:

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

14 (2) "Commission" means the Texas Commission on

15 Environmental Quality.

16 (3) "Director" means a board member.

17 (4) "District" means the Waller County Municipal

18 Utility District No. 35.

19 Sec. .002. NATURE OF DISTRICT. The district is a

20 municipal utility district created under Section 59, Article

1 XVI, Texas Constitution.

2 Sec. .003. CONFIRMATION AND DIRECTORS' ELECTION
3 REQUIRED. The temporary directors shall hold an election to
4 confirm the creation of the district and to elect five permanent
5 directors as provided by Section 49.102, Water Code.

6 Sec. .004. CONSENT OF MUNICIPALITY REQUIRED. The
7 temporary directors may not hold an election under Section
8 .003 until each municipality in whose corporate limits or
9 extraterritorial jurisdiction the district is located has
10 consented by ordinance or resolution to the creation of the
11 district and to the inclusion of land in the district.

12 Sec. .005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
13 The district is created to serve a public purpose and benefit.

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

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

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

21 Sec. .006. INITIAL DISTRICT TERRITORY. (a) The
22 district is initially composed of the territory described by
23 Section 2 of the Act enacting this chapter.

24 (b) The boundaries and field notes contained in Section 2
25 of the Act enacting this chapter form a closure. A mistake made

1 in the field notes or in copying the field notes in the
2 legislative process does not affect the district's:

3 (1) organization, existence, or validity;

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

7 (3) right to impose a tax; or

8 (4) legality or operation.

9 SUBCHAPTER B. BOARD OF DIRECTORS

10 Sec. .051. GOVERNING BODY; TERMS. (a) The district is
11 governed by a board of five elected directors.

12 (b) Except as provided by Section .052, directors serve
13 staggered four-year terms.

14 Sec. .052. TEMPORARY DIRECTORS. (a) On or after the
15 effective date of the Act enacting this chapter, the owner or
16 owners of a majority of the assessed value of the real property
17 in the district may submit a petition to the Commission
18 requesting that the commission appoint as temporary directors
19 the five persons named in the petition. The commission shall
20 appoint as temporary directors the five persons named in the
21 petition.

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

23 (1) the date permanent directors are elected under
24 Section .003; or

25 (2) the fourth anniversary of the effective date of

1 the Act enacting this chapter.

2 (c) If permanent directors have not been elected under
3 Section .003 and the terms of the temporary directors have
4 expired, successor temporary directors shall be appointed or
5 reappointed as provided by Subsection (d) to serve terms that
6 expire on the earlier of:

7 (1) the date permanent directors are elected under
8 Section .003; or

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

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

18 SUBCHAPTER C. POWERS AND DUTIES

19 Sec. .101. GENERAL POWERS AND DUTIES. The district has
20 the powers and duties necessary to accomplish the purposes for
21 which the district is created.

22 Sec. .102. MUNICIPAL UTILITY DISTRICT POWERS AND
23 DUTIES. The district has the powers and duties provided by the
24 general law of this state, including Chapters 49 and 54, Water
25 Code, applicable to municipal utility districts created under

1 Section 59, Article XVI, Texas Constitution.

2 Sec. .103. AUTHORITY FOR ROAD PROJECTS. Under Section
3 52, Article III, Texas Constitution, the district may design,
4 acquire, construct, finance, issue bonds for, improve, operate,
5 maintain, and convey to this state, a county, or a municipality
6 for operation and maintenance macadamized, graveled, or paved
7 roads, or improvements, including storm drainage, in aid of
8 those roads.

9 Sec. .104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
10 project must meet all applicable construction standards, zoning
11 and subdivision requirements, and regulations of each
12 municipality in whose corporate limits or extraterritorial
13 jurisdiction the road project is located.

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

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

22 Sec. .105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
23 OR RESOLUTION. The district shall comply with all applicable
24 requirements of any ordinance or resolution that is adopted
25 under Section 54.016 or 54.0165, Water Code, and that consents

1 to the creation of the district or to the inclusion of land in
2 the district.

3 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4 Sec. .151. ELECTIONS REGARDING TAXES OR BONDS. (a)

5 The district may issue, without an election, bonds and other
6 obligations secured by:

7 (1) revenue other than ad valorem taxes; or

8 (2) contract payments described by Section .153.

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

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

17 Sec. .152. OPERATION AND MAINTENANCE TAX. (a) If
18 authorized at an election held under Section .151, the
19 district may impose an operation and maintenance tax on taxable
20 property in the district in accordance with Section 49.107,
21 Water Code.

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

24 Sec. .153. CONTRACT TAXES. (a) In accordance with
25 Section 49.108, Water Code, the district may impose a tax other

1 than an operation and maintenance tax and use the revenue
2 derived from the tax to make payments under a contract after the
3 provisions of the contract have been approved by a majority of
4 the district voters voting at an election held for that purpose.

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

8 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

9 Sec. .201. AUTHORITY TO ISSUE BONDS AND OTHER
10 OBLIGATIONS. The district may issue bonds or other obligations
11 payable wholly or partly from ad valorem taxes, impact fees,
12 revenue, contract payments, grants, or other district money, or
13 any combination of those sources, to pay for any authorized
14 district purpose.

15 Sec. .202. TAXES FOR BONDS. At the time the district
16 issues bonds payable wholly or partly from ad valorem taxes, the
17 board shall provide for the annual imposition of a continuing
18 direct ad valorem tax, without limit as to rate or amount, while
19 all or part of the bonds are outstanding as required and in the
20 manner provided by Sections 54.601 and 54.602, Water Code.

21 Sec. .203. BONDS FOR ROAD PROJECTS. At the time of
22 issuance, the total principal amount of bonds or other
23 obligations issued or incurred to finance road projects and
24 payable from ad valorem taxes may not exceed one-fourth of the
25 assessed value of the real property in the district.

_.B. No. _____

1 SECTION 2. The Waller County Municipal Utility District
2 No. 35 initially includes all the territory contained in the
3 following area:

4 A metes & bounds description of a 696.27 acre tract of land
5 in the Fred Eule Survey, Abstract 375, the H. & T. C. Railroad
6 Company Survey Section 129, Abstract 204, and the W. I.
7 Williamson Survey, Abstract 410, Waller County, Texas, being
8 comprised of a portion of that certain called 1,263.584 acre
9 tract recorded in Volume 449, Page 312, Deed Records, Waller
10 County, Texas, and a portion of that certain called 0.673 acre
11 tract recorded in Volume 449, Page 508, Deed Records, Waller
12 County, Texas, with all bearings based upon the Texas Coordinate
13 System of 1983, South Central Zone, based upon GPS observations.

14 Beginning at the southwest corner of said H. & T. C.
15 Railroad Company Survey Section 129, Abstract 204, same being
16 the southeast corner of said Fred Eule Survey, Abstract 375, for
17 an angle point in the south line and the Point of Beginning of
18 the herein described tract, said point also being the northwest
19 corner of the adjoining J. W. McCutcheon Survey, Abstract 308,
20 and the northeast corner of the adjoining H. & T. C. Railroad
21 Company Survey Section 121, Abstract 201, and being an angle
22 point in the north line of the adjoining residue of a called
23 1,277.0358 acre tract recorded in Volume 313, Page 416, Deed
24 Records, Waller County, Texas;

25 Thence South 87 degrees 59 minutes 38 seconds West along

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1 the south line of the herein described tract and the south line
2 of said Fred Eule Survey, Abstract 375, same being the north
3 line of said adjoining H. & T. C. Railroad Company Survey
4 Section 121, Abstract 201, 2,621.09 feet to the southwest corner
5 of the herein described tract and said called 1,263.584 acre
6 tract, same being the southeast corner of an adjoining called
7 162.614 acre tract recorded under County Clerk's File Number
8 1700518, Official Records, Waller County, Texas;

9 Thence North 01 degree 56 minutes 12 seconds West along the
10 west line of the herein described tract, same being the east
11 line of said adjoining called 162.614 acre tract, 2,657.26 feet
12 to an angle point, said point being the northeast corner of said
13 adjoining called 162.614 acre tract, same being the southeast
14 corner of an adjoining called 4.00 acre tract recorded in Volume
15 1101, Page 526, Official Records, Waller County, Texas;

16 Thence North 01 degree 59 minutes 04 seconds West along the
17 west line of the herein described tract, same being the east
18 line of said adjoining called 4.00 acre tract, the east line of
19 an adjoining called 5.00 acre tract recorded in Volume 419, Page
20 367, Deed Records, Waller County, Texas, the east line of an
21 adjoining called 5.00 acre tract recorded in Volume 396, Page
22 104, Deed Records, Waller County, Texas, the east line of an
23 adjoining called 6.000 acre tract recorded in Volume 1361, Page
24 796, Official Records, Waller County, Texas, and the east line
25 of an adjoining called 10.00 acre tract recorded in Volume 1020,

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1 Page 776, Official Records, Waller County, Texas, 2,624.91 feet
2 to the lower northwest corner of the herein described tract and
3 said called 1,263.584 acre tract, said point being in the north
4 line of said Fred Eule Survey, Abstract 375, same being the
5 south line of the adjoining H. & T. C. Railroad Company Survey
6 Section 119, Abstract 200, as located in Beckendorff Road, said
7 point being the southeast corner of an adjoining tract recorded
8 in Volume 0995, Page 461, Official Records, Waller County,
9 Texas, same being the southwest corner of an adjoining called
10 19.0983 acre tract recorded in Volume 1181, Page 588, Official
11 Records, Waller County, Texas;

12 Thence North 88 degrees 01 minute 40 seconds East along the
13 lower north line of the herein described tract and said called
14 1,263.584 acre tract, and the north line of said Fred Eule
15 Survey, Abstract 375, same being the south line of said
16 adjoining H. & T. C. Railroad Company Survey Section 119,
17 Abstract 200, as located in Beckendorff Road, and along the
18 south line of said adjoining called 19.0983 acre tract, the
19 south line of an adjoining called 19.098 acre tract recorded in
20 Volume 686, Page 894, Official Records, Waller County, Texas,
21 and the south line of an adjoining called 19.0984 acre tract
22 recorded in Volume 657, Page 415, Official Records, Waller
23 County, Texas, 2,585.25 feet to a reentry corner to the herein
24 described tract and said called 1,263.584 acre tract, said point
25 being the southeast corner of said adjoining H. & T. C. Railroad

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1 Company Survey Section 119, Abstract 200, the southwest corner
2 of said W. I. Williamson Survey, Abstract 410, the northwest
3 corner of said H. & T. C. Railroad Company Survey Section 129,
4 Abstract 204, and the northeast corner of said Fred Eule Survey,
5 Abstract 375;

6 Thence North 02 degrees 16 minutes 26 seconds West along
7 the upper west line of the herein described tract and said
8 called 1,263.584 acre tract, and the west line of said W. I.
9 Williamson Survey, Abstract 410, same being the east line of
10 said adjoining H. & T. C. Railroad Company Survey Section 119,
11 Abstract 200, and being along the east line of said adjoining
12 called 19.0984 acre tract, the east line of an adjoining called
13 35.3053 acre tract recorded in Volume 994, Page 833, Official
14 Records, Waller County, Texas, the east line of an adjoining
15 called 31.987 acre tract recorded in Volume 757, Page 834,
16 Official Records, Waller County, Texas, and the east line of an
17 adjoining called 50 acre tract recorded in Volume 314, Page 159,
18 Deed Records, Waller County, Texas, 2,654.17 feet to the upper
19 northwest corner of the herein described tract and the northwest
20 corner of the aforementioned called 0.673 acre tract, said point
21 being the northwest corner of said W. I. Williamson Survey,
22 Abstract 410, same being the southwest corner of the adjoining
23 W. C. Pitts Survey, Abstract 411, and the southwest corner of an
24 adjoining called 0.652 acre tract recorded in Volume 1094, Page
25 575, Official Records, Waller County, Texas;

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1 Thence North 88 degrees 01 minute 17 seconds East along the
2 north line of the herein described tract, the north line of said
3 called 0.673 acre tract, and the north line of said W. I.
4 Williamson Survey, Abstract 410, same being the south line of
5 said adjoining W. C. Pitts Survey, Abstract 411, the south line
6 of said adjoining called 0.652 acre tract, and the south line of
7 an adjoining called 57.3029 acre tract recorded in Volume 619,
8 Page 220, Official Records, Waller County, Texas, 960.90 feet to
9 the intersection of said line with the Waller-Harris County line
10 for the northeast corner of the herein described tract;

11 Thence South 18 degrees 54 minutes 19 seconds East along
12 the Waller-Harris County line, 8,291.16 feet to the intersection
13 of said line with the south line of the aforementioned H. & T.
14 C. Railroad Company Survey Section 129, Abstract 204, for the
15 southeast corner of the herein described tract, said point being
16 in the south line of said called 1,263.584 acre tract, same
17 being the north line of the aforementioned adjoining J. W.
18 McCutcheon Survey Section 130, Abstract 308, and the north line
19 of the aforementioned adjoining residue of a called 1,277.0358
20 acre tract, recorded in Volume 313, Page 416, Deed Records,
21 Waller County, Texas;

22 Thence South 87 degrees 58 minutes 25 seconds West along
23 the south line of the herein described tract and said H. & T. C.
24 Railroad Company Survey Section 129, Abstract 204, same being
25 the north line of said adjoining J. W. McCutcheon Survey Section

__B. No. _____

1 130, Abstract 308, and the north line of said adjoining residue
2 of a called 1,277.0358 acre tract, 3,327.01 feet to the
3 southwest corner of said H. & T. C. Railroad Company Survey
4 Section 129, Abstract 204, same being the southeast corner of
5 the aforementioned Fred Eule Survey, Abstract 375;

6 Thence North 02 degrees 20 minutes 57 seconds West along
7 the west line of said H. & T. C. Railroad Company Survey Section
8 129, Abstract 204, same being the east line of said Fred Eule
9 Survey, Abstract 375, 53.43 feet to the southeast corner of an
10 adjoining called 10.00 acre tract recorded in Volume 200, Page
11 118, Deed Records, Waller County, Texas;

12 Thence along the common line of the herein described tract
13 and said adjoining called 10.00 acre tract with the following
14 courses and distances:

15 North 02 degrees 20 minutes 57 seconds West, 660.00 feet;

16 South 87 degrees 29 minutes 25 seconds West, 660.00 feet;

17 South 02 degrees 20 minutes 57 seconds East, 660.00 feet;

18 North 87 degrees 29 minutes 25 seconds East, 660.00 feet to

19 the southeast corner of said adjoining called 10.00 acre tract,

20 said point being in the east line of said Fred Eule Survey,

21 Abstract 375, same being the west line of said H. & T. C.

22 Railroad Company Survey Section 129, Abstract 204;

23 Thence South 02 degrees 20 minutes 57 seconds East along

24 the east line of said Fred Eule Survey, Abstract 375, same being

25 the west line of said H. & T. C. Railroad Company Survey Section

_.B. No. _____

1 129, Abstract 204, 53.43 feet to the Point of Beginning and
2 containing 696.27 acres of land, more or less.

3 This document was prepared under 22 TAC §663.21, does not
4 reflect the results of an on the ground survey, and is not to be
5 used to convey or establish interests in real property except
6 those rights and interests implied or established by the
7 creation or reconfiguration of the boundary of the political
8 subdivision for which it was prepared.

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
14 furnished under Section 59, Article XVI, Texas Constitution, and
15 Chapter 313, 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
20 filed its recommendations relating to this Act with the
21 governor, the lieutenant governor, and the speaker of the house
22 of representatives within the required time.

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

__B. No. _____

1 fulfilled and accomplished.

2 SECTION 4. (a) If this Act does not receive a two-thirds
3 vote of all the members elected to each house, Subchapter C,
4 Chapter ____, Special District Local Laws Code, as added by
5 Section 1 of this Act, is amended by adding Section _____.106 to
6 read as follows:

7 Sec. _____.106. NO EMINENT DOMAIN POWER. The district may
8 not exercise the power of eminent domain.

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

12 SECTION 5. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2019.

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