

TCEQ DOCKET NO. 2011-1847-DIS

APPLICATION FOR THE	§	BEFORE THE
CREATION OF	§	TEXAS COMMISSION ON
LAKEHAVEN MUNICIPAL	§	ENVIRONMENTAL QUALITY
UTILITY DISTRICT OF	§	
COLLIN COUNTY	§	

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") files this Response to Hearing Request by Bill Bilyeu on behalf of the Collin County Commissioner's Court on the Application for the Creation of Lakehaven Municipal Utility District of Collin County ("District"). A copy of the application and the Executive Director's technical summary has been filed separately with the Office of the Chief Clerk for Commission consideration.

The proposed District would contain 375.9 acres, located within Collin County. The proposed District is located just west of State Highway 78 and north of County Road 550, south of County Road 553 and west of County Road 551 in southeastern Collin County, on the eastern side of Lavon Lake. The proposed District is a few miles southwest of the City of Farmersville. Access will be provided via State Highway 78 and County Road 551. The application states that the proposed District is not located within the corporate boundaries or extraterritorial jurisdiction of any municipality. The application asserts that the general nature of the District's work will include the provision of water, wastewater and stormwater drainage services within the District's boundaries.

Attached for Commission consideration is a copy of the Draft Order, along with Exhibit A (Metes and Bounds description); and Exhibit B (technical summary).

II. PROCEDURAL HISTORY

The Petitioner filed an application for the creation of the District on February 22, 2011, which was declared administratively complete on March 2, 2011. The Petitioner published the Notice of District Petition in the *McKinney Courier-Gazette*, a newspaper generally circulated in Collin County, where the district is proposed to be located on July 10 and 17, 2011. On July 14, 2011, proper notice of the application was posted on the bulletin board used for posting legal notices in Collin County, Texas. On July 18, 2011, TCEQ received a letter from Collin County Administrator, Bill Bilyeu, on behalf of the

Collin County Commissioner's Court, opposing the creation of the district. The period to request a contested case hearing ended August 16, 2011. The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing requests on December 15, 2011.

III. THE CREATION OF MUNICIPAL UTILITY DISTRICTS

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. TEX. WATER CODE (TWC) § 54.011. The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 54 of the TEX. WATER CODE. A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semi-arid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

TWC § 54.012. The Commission has jurisdiction to hear this case and create the district.
TWC § 54.014.

The Commission must grant or deny a MUD creation application in accordance with Section 54.021 of the TEXAS WATER CODE. In order to grant an application, the Commission must find that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the district. TEX. WATER CODE § 54.021(a); 30 TEX. ADMIN. CODE § (Rule) 293.13(b)(1). If the Commission fails to make these findings, it shall refuse to grant the petition. TWC § 54.021(d); Rule 293.13(a).

In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

TWC § 54.021(b). The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings. Id. (c); Rule 293.13(b)(2).

IV. REVIEW OF CREATION BY COUNTY

In addition to the above review, the Commission shall also consider the written opinion submitted by the county commissioners. TWC § 54.0161(c). If all or part of a proposed district is to be located outside the extraterritorial jurisdiction of a city, the commissioners court of the county in which the district is to be located may review the petition for creation. Id. (a).

If the commissioners court reviews the petition, it shall submit a written opinion to the Commission stating whether the county would recommend the creation of the proposed district or not; and stating any findings, conclusions, and other information that the commissioners think would assist the Commission in making a final determination on the petition. Id. (b). The commissioners court must submit its opinion at least 10 days before the date set for the hearing on the petition. Id.

V. THE EVALUATION PROCESS FOR HEARING REQUESTS

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of Rule 55.250-.256. The Commission, the Executive Director, the applicant or affected persons may request a contested case hearing on this application. Rule 55.251(a). The Commission must evaluate the hearing requests and may take one of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;

- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings ("SOAH") for a hearing; or
- (4) refer the hearing requests to SOAH for a hearing on whether the hearing requests meet the rule requirements.

Rule 55.255(a). The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice Of District Petition. Rule 55.251(b) and (d). These two requirements are mandatory. The affected person's hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

Rule 55.251(c). An affected person's personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public. Rule 55.256(a). The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person; and
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person.
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

Rule 55.256(a). Government entities, including local governments, may be affected persons if they have authority under state law over issues contemplated by the application. Rule 55.256(b).

VI. THE HEARING REQUEST

TCEQ received one hearing request on the application for the creation of the proposed District from Bill Bilyeu, Collin County Administrator. The hearing request states that it is a request on behalf of the Collin County Commissioners Court. However, it is not clear from the letter that Bill Bilyeu is authorized to request a contested case hearing on behalf of the county. The ED nevertheless will make the following analysis based on the assumption that Mr. Bilyeu has such authority.

A. Analysis of the Hearing Requests

1. Compliance with Rule 55.201(a)-(d)

Collin County Commissioners Court failed to substantially comply with Rule 55.251(c) in making its hearing request. Although it provided its contact information and requested a hearing, it failed to identify a personal justiciable interest affected by the application, as required under Rule 55.251(c)(2). The County states only that the application fails to take into account the county's limited resources, specifically transportation, health and safety and emergency services. Although the Commission is required to consider water quality under Rule 54.021(b)(3)(F), which arguably relates to health and safety, the County's concerns are too vague to identify whether it is concerned with water quality, and if so, how its interest is justiciable. Accordingly, the Executive Director believes that Collin County has not substantially complied with Rule 55.251(c).

2. Whether the Requestor Meets the Requirements of an Affected Person

An affected person is “[a] person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application.” Rule 55.256(a). As a government entity, Collin County may be considered an affected person if it can show it has authority under state law over issues contemplated by the application. Rule 55.256(b). As noted above, the County claims that the application failed to take into account the county's limited resources, specifically transportation, health and safety and emergency services. However, those are not issues that the Commission may consider in the context of a MUD creation application. Although the Commission is required to consider the County's report, if submitted within 10 days of the hearing, TWC § 54.0161, Collin County has not established that it has authority

under state law over the issues contemplated by the application, and therefore is not an affected person.

B. Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing

Collin County raises issues that relate to the impact the district will have on the County's limited resources, namely transportation, health and safety, and emergency services. In evaluating whether a MUD is feasible, practicable, necessary and would be a benefit to the land included in the district, the Commission shall consider the items set out in TWC § 54.021(b)(3)(see above). Whether the district and its system and subsequent development within the district will have an unreasonable effect on water quality (F), arguably relates to health and safety, but this is not an issue the County raises. The County states only that the application does not take into account the effect the creation of the district will have on health and safety, but does not relate this to water quality. The Executive Director concludes that Collin County did not raise any issues that are relevant and material to the Commission's decision on this MUD creation application.

VII. DURATION FOR THE CONTESTED CASE HEARING

If the Commission refers the matter to SOAH for a contested case hearing, the Executive Director recommends that the projected duration for any contested case hearing between preliminary hearing on the matter and presentation of a proposal for decision before the Commission, should be nine (9) months.

VIII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends finding that Collin County failed to submit a valid hearing request; is not an affected person; and raised no issues referable to SOAH for a contested case hearing. Accordingly, pursuant to Rule 55.255(a), the ED recommends denying the hearing request and granting the application.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark Vickery, P.G., Executive Director

Robert Martinez, Director
Environmental Law Division

By: 
Christiaan Siano, Staff Attorney
Environmental Law Division
Texas State Bar No. 24051335

P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-6743
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ATTORNEYS FOR
THE EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2011, the original of "Executive Director's Response to Hearing Request" relating to the Application for the Creation of Lakehaven Municipal Utility District of Collin County was filed with the Texas Commission On Environmental Quality's Office of the Chief Clerk and mailed to the individuals on the mailing list.


Christiaan Siano, Staff Attorney
Environmental Law Division
Texas State Bar No. 24051335

MAILING LIST
LAKEHAVEN MUNICIPAL UTILITY DISTRICTS OF COLLIN COUNTY
DOCKET NO. 2011-1847-DIS; TCEQ INTERNAL CONTROL NO.
02222011-Do2

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FOR THE CHIEF CLERK:

Ms. Bridget C. Bohac
Texas Commission on Environmental
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REQUESTOR:

Mr. Bill Bilyeu
Collin County Administrator
Jack Hatchell Administration Building
2300 Bloomdale Road, Ste 4192
McKinney, Texas 75071
Tel: (972) 548-4631

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER GRANTING THE PETITION FOR CREATION OF LAKEHAVEN MUNICIPAL UTILITY DISTRICT OF COLLIN COUNTY AND APPOINTING TEMPORARY DIRECTORS

A petition by Farmersville Investors, LP (hereafter "Petitioner") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for approval of the creation of Lakehaven Municipal Utility District of Collin County (hereafter "District") pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapters 49 and 54.

The Commission, after having considered the petition, application material, Memorandum from the Executive Director's staff dated September 19, 2011 regarding the petition, a copy of which is attached as Exhibit "B", and hereby incorporated by reference, finds that the petition for creation should be approved.

The Commission finds that the creation of the proposed District as set out in the application is feasible, practicable, necessary, and would be a benefit to the land to be included in the proposed District.

The Commission further finds that the proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on land elevation, subsidence, groundwater levels within the region, recharge capability of a groundwater source, natural run-off rates or drainage, water quality, or total tax assessments on all land located within the proposed District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for creation of Lakehaven Municipal Utility District of Collin County have been fulfilled in accordance with TEX. WATER CODE § 54.021 and 30 TEX. ADMIN. CODE §§ 293.11 and 293.12.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition for the creation of Lakehaven Municipal Utility District of Collin County is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE, Chapters 49 and 54.
3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the Texas Commission on Environmental Quality and the general laws of the State of Texas relating to municipal utility districts.
4. The District shall be composed of the area situated wholly within Collin County, Texas, described by the metes and bounds in Exhibit "A", attached hereto and incorporated herein for all

purposes.

5. The memorandum from the Executive Director's staff dated September 19, 2011 (hereafter "Memorandum"), is hereby attached as Exhibit "B" and incorporated as part of this Order.

6. The persons listed in Recommendation No. 3 of the Memorandum are hereby named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

7. This Order shall in no event be construed as an approval of any proposed agreement or of any particular item in any document provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular item or agreement in future applications submitted by the District for Commission consideration.

8. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.

9. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

For the Commission

EXHIBIT "A"

BEING a 375.9 acre tract of land situated in the ELIJAH B. REED SURVEY, ABSTRACT NO. 739, in Collin County, Texas, said tract being a portion of a called 471.016 acre tract of land described in a deed to Farmersville Investors, LP, recorded as Document No. 20060324000384140, Deed Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at the northwest corner of said 471.016 acre tract;

THENCE North 89 degrees 48 minutes 12 seconds East, along the north boundary of said 471.016 acre tract, a distance of 3,426.86 feet to a point;

THENCE South 00 degrees 09 minutes 36 seconds West, over and across said 471.016 acre tract, parallel to and 10.00 west of an east boundary of said 471.016 acre tract, a distance of 2,465.00 feet to a point;

THENCE South 89 degrees 48 minutes 46 seconds West, along a south boundary of said 471.016 acre tract, a distance of 212.48 feet to an interior ell corner of said 471.016 acre tract;

THENCE South 00 degrees 04 minutes 27 seconds West, along an east boundary of said 471.016 acre tract, passing an interior ell corner of said 471.016 acre tract at 2,193.22 feet and continuing for a total distance of 3,037.01 feet to a point for corner;

THENCE North 88 degrees 49 minutes 13 seconds West, passing an interior ell corner of said 471.016 acre tract at 484.77 feet and continuing for a total distance of 1,552.01 feet to a point on the south boundary of said 471.016 acre tract;

THENCE North 89 degrees 13 minutes 34 seconds West, along a south boundary of said 471.016 acre tract, a distance of 1,092.63 feet to an exterior ell corner of said 471.016 acre tract;

THENCE North 00 degrees 15 minutes 03 seconds East, along a west boundary of said 471.016 acre tract, a distance of 2,981.00 feet to an interior ell corner of said 471.016 acre tract;

THENCE South 89 degrees 53 minutes 05 seconds West, along a south boundary of said 471.016, a distance of 570.39 feet to the most westerly southwest corner of said 471.016 acre tract;

THENCE North 00 degrees 02 minutes 46 seconds West, along the west boundary of said 471.016 acre tract, a distance of 2,464.40 feet to the POINT OF BEGINNING and containing 375.9 acres of land, more or less.

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


Brian R. Wade, R.P.L.S. No. 6098



Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Linda Brookins, Director
Water Supply Division

Date: September 19, 2011

Thru: *9/22/11*
AB Tammy Benter, Manager
Utilities & Districts Section

AB
9/22/11
RN 9-19-11
Anthony Schneider, P.E., Team Leader
Utilities & Districts Section

From: *CB* Craig Barnes, Districts Creation Review Team
9-19-11

Subject: Petition by Farmersville Investors, LP for Creation of Lakehaven Municipal Utility District of Collin County; Pursuant to Texas Water Code Chapters 49 and 54. TCEQ Internal Control No. 02222011-D02 (TC)
CN: 106091838 RN: 603815945

A. GENERAL INFORMATION

The Commission received a petition within the application requesting approval for the creation of Lakehaven Municipal Utility District of Collin County (the "District"). The petition was signed by Leon J. Backes, sole manager of Farmersville Investors GP, LLC, general partner of Farmersville Investors, LP (the "Petitioner"). According to the petition, the Petitioner is the owner of a majority in value of the land in the proposed District, and there is one lienholder, Liberty Bank of Arkansas, on the property to be included in the proposed District. By signing the petition, the lienholder has consented to the creation of the proposed District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

Location and Access

The proposed District is located just west of State Highway 78 and north of County Road 550, south of County Road 553 and west of County Road 551 in southeastern Collin County, on the eastern side of Lavon Lake. The proposed District is a few miles southwest of the City of Farmersville. Access will be provided via State Highway 78 and County Road 551. The petition states that the proposed District is not located within the corporate boundaries or extraterritorial jurisdiction of any municipality.

Metes and Bounds Description

The proposed District contains one tract of land totaling 375.9 acres. The metes and bounds description of the proposed District has been checked by the Commission's staff and found to form an acceptable closure.

Statements of Filing Petition

Evidence of filing the petition with the Collin County clerk's office and the Commission's Region 4 office has been received.

Type of Project

The proposed District will be considered a "developer project" as defined by Commission rules. Therefore, developer cost participation, in accordance with 30, Texas Administrative Code, Section 293.47, will be required.

Developer Qualifications

The proposed District will be developed and managed by Provident Realty Advisors, Inc., an affiliate of the petitioner, Farmersville Investors, LP. Provident Realty Advisors, Inc. has developed several master planned community developments in the Dallas/Fort Worth area and Houston.

Appraisal District Certificate

The proposed District has provided an affidavit from the Collin Central Appraisal District dated February 15, 2011 which states the Petitioner owns 100% of the land in the proposed District.

Temporary Director Affidavits

The Commission has received affidavits for Commission consideration of the appointment of temporary directors for the following:

Jewellie Arnold
Tom Kailey

Yvonne D. Bone
Dirk Foster

Tiffany McDaniel

Each of the above persons named is qualified, as required by Section 293.32(a), to serve as a temporary director of the proposed District as each (1) is at least 18 years old; (2) is a resident of the state of Texas; and (3) either owns land subject to taxation within the proposed District, or is a qualified voter within the proposed District.

Notice Requirements

Proper notice of the application was published in the McKinney Courier-Gazette, a newspaper regularly published or circulated in Collin County where the district is proposed to be located, on July 10 and 17, 2011, and posted at the Collin County Courthouse on a bulletin board used for posting legal notices, on July 14, 2011. Accordingly, the notice requirements of Section 293.12(b) have been satisfied.

B. ENGINEERING ANALYSIS

The creation engineering report indicates the following:

Availability of Comparable Service

The proposed District is not within the corporate boundaries and extraterritorial jurisdiction of any municipality. Copeville Special Utility District (SUD) is the Water Certificate of Convenience and Necessity (CCN) holder (CCN 11376) and no sewer CCN exists. Copeville SUD is expected to be the retail provider of water and will operate and maintain water facilities within the proposed District.

Water Supply

The proposed District anticipates receiving retail water supply from Copeville SUD. The District will be required to contribute its pro rata share of offsite waterlines, pumping, and storage facilities.

Water Distribution

The water distribution system for full development of the proposed District will consist of approximately 65,880 linear feet of internal lines ranging in size from 8-inches to 12-inches and 13,400 linear feet of 12 inch line offsite to connect to Copeville SUDs ground storage tank. Valves, fire hydrants, and flushing valves will be provided at intervals required by TCEQ and Copeville SUD.

Wastewater Treatment

The wastewater generated by the development of the proposed District will be conveyed to its interim wastewater treatment plant until the future North Texas Municipal Water District (NTMWD) regional wastewater treatment plant is constructed. The proposed District intends to receive wholesale wastewater treatment from the NTMWD when it is completed.

Wastewater Collection

The wastewater collection system for full development of the proposed District will consist of approximately 61,870 linear feet of internal lines ranging in size from 8-inches to 15-inches and 2,500 linear feet of 15-inch line offsite.

Storm Water Drainage

The storm water runoff system within the proposed District will consist of curb inlets, outfall structures, and approximately 34,660 linear feet of internal lines ranging in size from 18-inches to 8'x6' box culverts. The flows will outfall into unnamed tributaries of Lavon Lake.

Topography

The area within the proposed District has moderate to steep slopes. The land elevation ranges from approximately 560 feet to 510 feet above mean sea level. Drainage within the proposed District generally flows northwest and southeast to unnamed tributaries of Lavon Lake.

Floodplain

Flood Insurance Rate Map number 48085C0435J dated June 2, 2009, indicates a small section of the proposed District lies within Zone A. No homes or other improvements will be made within this section.

Impact on Natural Resources

The creation of the proposed District should not have an adverse effect on land elevation, groundwater levels, recharge capability, subsidence, natural runoff rates and drainage, or water quality.

C. SUMMARY OF COSTS

<u>Construction Costs</u>	<u>Total Cost</u> ^(*)
A. Developer Contribution Items	
1. Clearing & Grubbing	\$ 141,000
2. Water Distribution	2,861,280
3. Wastewater Collection	3,035,320
4. Wastewater Collection – Offsite	102,500
5. Drainage	4,161,540
6. Excavation – Detention	601,600
7. Contingencies (15.3% of Items 1-6)	1,665,114
8. Engineering & Testing (16.8% of Items 1-7)	2,112,401
Total Developer Contribution Items	\$ 14,680,755
B. District Items	
1. Water Supply Facilities	\$ 2,044,760
2. Wastewater Treatment – District	1,145,000
3. Water Interconnect	630,600
4. Contingencies (15.1% of Items 1-3)	575,064
5. Engineering & Testing (15.4% of Items 1-4)	674,724
6. Land Acquisition	30,000
Total District Items	\$ 5,100,148
TOTAL CONSTRUCTION COSTS (68.86% of (BIR))	\$ 19,780,903
<u>Non-Construction Costs</u>	
A. Legal Fees (2.5%)	\$ 718,125
B. Fiscal Agent Fees (2.0%)	574,500
C. Interest Costs	
1. Capitalized Interest (2 years @ 6.0%)	3,447,000
2. Developer Interest (2 years @ 6.0%)	2,370,108
D. Bond Discount (3.0%)	861,750
E. Creation/Operating Costs	500,000
F. Bond Issuance Costs	191,476
G. Bond Application Report Costs (6 @ \$30,000)	180,000
H. Attorney General's Fee	28,725
I. TCEQ Bond Issuance Fee (0.25%) + \$600	72,413
TOTAL NON-CONSTRUCTION COSTS	\$ 8,944,097
TOTAL BOND ISSUE REQUIREMENT	\$28,725,000

Note: (1) Assumes 100% funding of anticipated developer contribution items, where applicable. Eligibility of costs for District funding and 30% developer contribution requirements will be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

D. ECONOMIC ANALYSIS

Land Use

The land use for the proposed District is projected in the following table:

<u>Development</u>	<u>Acres</u>	<u>ESFCs⁽¹⁾</u>
Single-Family	344	1,646
Open Space/Parks/Floodplain	16	0
Street Right-of-Way	<u>16</u>	<u>0</u>
	376	1,646

Note: (1) Equivalent single family connections.

Market Study

A market study, prepared by Residential Strategies, Inc., has been submitted in support of the creation of the proposed District. The market study indicates the proposed District will contain approximately 1,646 lots for single-family homes. Residential Strategies, Inc. submitted a supplement to the original market study which indicates an annual absorption rate of 60 ESFCs in 2013, 74 ESFCs in 2014, 93 ESFCs in 2015, 114 ESFCs in 2016, and 118 ESFCs in 2017 and thereafter, resulting in build-out of the District in approximately 14.5 to 15 years.

Project Financing

The estimated total assessed valuation of the proposed District at completion is as follows:

<u>Type of Units</u>	<u># of Units</u>	<u>Average Unit Value</u>	<u>Total Value at Build-out</u>
Single-Family (50' lots)	822	\$ 125,000	\$ 102,750,000
Single-Family (60' lots)	824	\$ 145,000	\$ 119,480,000
		Total Assessed	\$ 222,230,000
		Valuation	

Considering an estimated bond issue requirement of \$28,725,000 (assuming 100% financing), a coupon bond interest rate of 6.0%, and a 25-year bond life, the average annual debt service requirement would be approximately \$2,247,062. Assuming a 95% collection rate and an ultimate taxable assessed valuation of \$222,230,000, a tax rate of about \$1.06 per \$100 assessed valuation would be necessary to meet the annual debt service requirements.

The total year 2010 overlapping tax rates on land within the proposed District are shown in the following table:

<u>Taxing Jurisdiction</u>	<u>Tax per \$100 valuation</u>
Farmersville ISD	\$1.31
Collin County	0.24
Collin County Community College	0.09
Proposed District	<u>1.16⁽¹⁾</u>
Total tax per \$100 valuation	\$2.80

Note: (1) Includes a \$1.06 debt service tax rate and a \$0.10 maintenance tax rate.

Based on the proposed District tax rate and the year 2010 overlapping tax rate on land within the proposed District, the project is considered economically feasible.

Water and Wastewater Rates

Based on the information provided, the estimated monthly fee for 10,000 gallons of water and wastewater would be \$102.76.

Comparative Water District Tax Rates

A tax rate of \$2.80 per \$100 assessed valuation for the proposed District is comparable to other developments in the area. Based on the requirements of Section 293.59, this project is economically feasible.

E. SPECIAL CONSIDERATIONS

County Notification

Application material indicates that the proposed District is outside of the corporate limits and extraterritorial jurisdiction of any city. Therefore, pursuant to Texas Water Code Section 54.0161, the Commission sent a letter, dated June 10, 2011, to the Collin County Commissioners Court notifying them of the proposed District. In response to the letter submitted to the county, the Collin County Commissioners Court stated in a July 13, 2011 letter that the application does not consider effects on the county and requests a contested case hearing.

F. CONCLUSIONS

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers.
2. Based on a review of the preliminary engineering report; market study; the proposed District's water, wastewater, and drainage facilities; a combined projected tax rate of \$1.16; the proposed District obtaining a 6.0% bond coupon interest rate; and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by Section 293.59.

3. The recommendations are made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

G. RECOMMENDATIONS

1. Grant the petition for creation of Lakehaven Municipal Utility District of Collin County.
2. The order granting the petition should include the following statements:

“This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.”

3. Appoint the following to serve as temporary directors until permanent directors are elected and qualified:

Jewellie Arnold
Tom Kailey

Yvonne D. Bone
Dirk Foster

Tiffany McDaniel

H. ADDITIONAL INFORMATION

The petitioners' professional representatives are:

Attorney:	Mr. Christopher Jordan – Crawford & Jordan, LLP
Engineer:	Mr. Adam Conway, P.E. – Pettitt Barraza, LLC
Market Analyst:	Mr. Ted Wilson – Residential Strategies