

REPORT AND PRELIMINARY RECOMMENDATIONS COMMUNITY ASSOCIATIONS OF THE WOODLANDS

FEBRUARY 1, 2007

BACKGROUND

The Community Associations of The Woodlands have been an important part in developing a plan for the future governance of The Woodlands and have been proactive in supporting the concept of self-determination for residents of The Woodlands. Over the years, the Associations have committed considerable resources to the development of information and processes to bring the issue of governance to public forums and to develop a plan of action for the community.

On December 7, 2006, Texas State Senator Tommy Williams and City of Houston Mayor Bill White announced an agreement in principle that would provide residents of The Woodlands the ability to choose a future form of self-governance and to provide an ongoing financial partnership between The Woodlands and the City of Houston for capital improvement projects in the region.

It appears two acts of legislation will be required of the 80th Texas Legislature to implement the provisions of the agreement between The Woodlands and the City of Houston. First, a bill supporting the Regional Participation Agreement between The Woodlands and Houston that identifies the various participating parties and further provides the ability for those parties to enter into and perform their obligations as set out in the agreement will be introduced.

The second bill will create a special district to include all of the area of The Woodlands in Montgomery County within the ETJ of the City of Houston. This new political subdivision would be granted the ability to provide local services with taxing powers necessary to fund the needs of the district and to fund the capital improvement projects contemplated in the agreement between The Woodlands and the City of Houston. It is anticipated that the retooling of the current Town Center Improvement District legislation will serve as the vehicle to accomplish this task and that this *new political subdivision* would be entitled "The Woodlands District," or something similar.

Because the specific governance implications of the proposed Agreement have yet to be defined or legislated, and more importantly, because the continuation of superior service delivery for which the Associations provide our 85,000 Members is mandatory, it is imperative that the Associations start a dialogue to investigate how to participate most effectively to ensuring this proposal is successfully arranged for all involved. To this end, the Associations are very interested in partnering with the Town Center Improvement District to assure that the proposed legislation is enacted and that our high quality community services are maintained.

FINDINGS

Since the inception of The Woodlands, the Community Associations have been an important part of providing services to our Members. These services, as enabled under Association Covenants, have expanded over the years as more parks, pathways, entry ways, medians, fire stations, pools and other facilities have been constructed and added for the benefit of the community. These operations and facilities are extensive and require a considerable investment of resources, staff support and expertise to maintain service quality.

As articulated by Senator Williams at The Woodlands Community Association meeting on January 10, 2007, he and Representative Eissler will draft legislation specific enough to ensure a new political subdivision would be crafted to suit the needs of The Woodlands, but ensure that this legislation would not prescribe any specific mandates or definitions particular to organizational structure or service delivery for the community. Because Senator Williams has requested that the details of local governance provisions be executed at the local level between current service providers, The Woodlands Community Association, The Woodlands Association and The Woodlands Commercial Owners Association are in a unique position to provide guidance in the development of the new political subdivision in light of their expansive leadership experience:

Serving as the original providers of municipal-type services to The Woodlands since its inception over thirty years ago;

Providing for a professional and experienced staff to deliver municipal-type services through a Service Agreement with The Woodlands Community Service Corporation and The Woodlands Fire Department;

Providing for development and funding of facilities, equipment and assets used to provide service to the Members, such as fire stations, fire equipment, parks and pathways, pools, common property and green space reserves and other operating equipment;

Providing for and administering the election of over 100 officials to governing Boards annually;

Providing for the administration of six Association and organizational budgets totaling nearly \$40 million annually;

Providing for the operations of six Boards governing the over 85,000 Members of The Woodlands;

Providing the forum for residents of The Woodlands to directly participate in the governance of our community, including the development, administration and

management of the seven-year, multi-phase governance project which specifically helped to initiate this proposal.

It is evident that while the details of the funding structure to be legislated this session remain unknown, the necessity to provide municipal-type services to The Woodlands continues. Currently, these services are provided by the Community Associations of The Woodlands; their expertise, experience and scope to which they provide these municipal-type services is, as demonstrated, simply unmatched:

Professionally staffed and equipped fire department delivering fire suppression, fire advanced life support, emergency medical first response, hazardous material response, technical rescue, 9-1-1 emergency communications, public safety education, fire prevention and inspection services which alone saved over \$32 million worth of property in 2006.

The management of garbage collection, recycling collection, yard waste collection, bulky waste pick-up and the dissemination of environmental education for the over 30,000 households in The Woodlands.

The management and maintenance of streetlights, over 775 medians and esplanades and 336 jumbo cul-de-sacs throughout The Woodlands.

The maintenance and operation of over 105 parks, 489 acres of improved park land, over 140 miles of pathways, over 2000 acres of Open Space Reserves, 2 lakes, 34 ponds and 370 acres of water.

The maintenance, operation and programming of 2 large sports field complexes, 14,000 square feet of the Recreation Center, 59 tennis courts, 23 basketball courts and recreation programming for all residents of The Woodlands.

The maintenance, operation and programming of the 12 community swimming pools and future aquatics center in Creekside Park.

The management and enforcement of covenant and deed restrictions for the over 30,000 households in The Woodlands, including the administration of all property records and resale certificates, annual review of nearly 4,000 property improvement applications, review and preparation of hearings for appeals and variances and ongoing inspection and monitoring of all residences in The Woodlands including annual documentation of and monthly visits to each residential property in the community.

The funding and management of a \$2.5 million contract for enhanced law enforcement services for The Woodlands.

The administration, management and support of over 500 Board, Committee, and Association meetings annually (who govern The Woodlands.)

The provision of nearly \$40 million in services annually, as previously outlined.

The administration, management and support of over 300 full-time employees and an additional 300 part-time and seasonal employees which provide the above municipal-type services.

GUIDING PRINCIPLES OF THE ASSOCIATIONS

The Woodlands Community Association, The Woodlands Association, and The Woodlands Commercial Owners Association endorse the efforts of Senator Williams and Representative Eissler. And, to ensure that the proposed agreement negotiated by the Senator with the City of Houston is legislatively executed, the Associations pledge their resources and recognize themselves as full and cooperative partners in implementing the two initiatives at hand.

In working towards this objective, the Associations will be guided by the following principles and objectives:

- The continuation of high quality services is of the utmost importance to The Woodlands community and to the Associations. During the transition period anticipated by the legislation, it is essential that an effective plan be developed to assure the continuation of high quality services, presently provided through the Associations to the community, without interruption. The Associations are committed to achieving this objective and assume this responsibility on behalf of the community.
- The three Associations collectively own, hold title to or control assets such as parks, pathways, athletic facilities, green space reserves, swimming pools, fire stations, recreation center, parks maintenance facility, office facilities and a considerable amount of rolling fleet and operation equipment. The Associations collectively agree that it is in the best interest of the community that the new political subdivision achieves the service delivery objectives and the community representation objectives before consideration of a transfer of Association services or assets.
- The Associations are committed to the principle stated in the Mutual Benefit Agreement (MBA) that equal and uniform services will continue to be provided to properties served by all three Associations. This principle is paramount in service delivery and appropriate legislation or agreements must be put in place to achieve this objective.
- The Associations believe that it is important for the Town Center Improvement District and the Associations to have an equal partnership in this transition process.

RECOMMENDATIONS

With the development of a new political subdivision which may eventually be given the responsibility of providing municipal-type services currently being furnished by the Associations, it is *incumbent* upon the Associations to be the voice of experience and participate in the formulation and implementation of the regional participation agreement and the transitional government to ensure these services will continue to be provided in the professional manner in which the 85,000 Members of The Woodlands have become accustom. As such, it is recommended that swift and immediate action be taken as to the following:

1. Define how the Associations can participate in supporting the successful passage of necessary legislation, including:
 - a. Ensuring each Association resolves to support the legislation entered by Senator Williams and Representative Eissler, and
 - b. Offer to share in the cost for *Hillco Partners*, a firm recently retained by Town Center Improvement District for purposes of lobbying for said legislation.

Thus assuming that there would be successful passage of necessary legislation:

2. Establish a cooperative partnership with Town Center Improvement District to monitor legislation and discuss issues through a joint committee or working group.
3. Establish a collaborative process with our State Legislators and other local entities and governments, such as the various MUD's, road district, and Town Center Improvement District, to initiate dialogue on how to:
 - a. Fund the initial and continuing regional participation payments to the City of Houston (estimated at \$45 million over the next 30 years), and
 - b. Provide municipal-type services to The Woodlands as outlined in the proposal.
4. Establish a process by which all questions relating to a potential transition of or to a new political subdivision can be identified and addressed (*see Appendix: Considerations*).
5. Establish a public communication program which, among other things, would immediately initiate an educational campaign after passage of legislation to ensure successful voter participation in the November 2007 election.

APPENDIX

APPENDIX: CONSIDERATIONS

The following is an extensive, but not exclusive, list of considerations that need to be addressed as the Associations move forward in the governance process.

Considerations related to the Mutual Benefit Agreement

The three Associations are guided by a Mutual Benefit Agreement (MBA) which stipulates service provision to the community. The purpose of the Service Agreement was to ensure a common service provider would deliver equitable services and ensure equitable development standards across the community; to ensure equal access to services such as parks and pathways as well as joint management and funding of major capital and operational expenses, including that of The Woodlands Fire Department. The MBA also provides the ability for the Associations to merge once development is complete or earlier, upon mutual agreement.

The MBA remains in effect until 2023 and will automatically renew unless terminated by mutual consent of all parties (including the Associations, The Woodlands Community Service Corporation, The Woodlands Development Company, and The Woodlands Fire Department.) The Service Agreement with The Woodlands Community Services Corporation automatically renews every three years (unless terminated by an Association); the Service Agreement will be up for renewal again in 2009.

Section XI of the MBA stipulates that if any or all portions of the Associations become a part of a governmental entity which provides any or all services currently provided by the Associations through the levy of an ad valorem tax (or other mandatory assessment to residents and property owners), the Associations will be relieved of their obligation to provide and pay for those services provided by the governmental entity.

With these details in mind, the following should be considered in terms of the MBA:

1. To what extent will or should the Associations transfer certain services to a new political subdivision/governing entity?
2. To the extent that a new political subdivision is created, does (or should) the MBA obligate that services must continue to be provided equally:
 - o By the Associations?
 - o By the new political subdivision?
3. If a new political subdivision is created that covers some, but not all of the area included in the MBA, how:
 - o Are services provided in the area which is now part of the new political subdivision?
 - o Are services provided in the area not part of the new political subdivision?
4. What obligation does (or should) the new political subdivision have in providing services as prescribed by (or similar to) the Service Agreement? What remedy exists if the services are not provided according (or similar) to the Service Agreement?

5. What affect will changes in service delivery have on other parties of the MBA, including The Woodlands Development Company and The Woodlands Fire Department?

Considerations related to financial matters of the Associations

The Associations own many of the municipal types of assets used to provide service to the members, such as fire stations, fire equipment, parks and pathways, pools, common property and green space reserves. Additionally, any transfer or disposition of assets/liabilities (both mutually owned and Association owned) would require approval of all three Associations and may require considerable negotiation and discussion to resolve related issues.

With this in mind, the following should be considered in terms of financial matters:

1. What is the future/assignment/disposition of assets/liabilities owned by an/the Associations and/or in partnership with another entity (MUDs, county, etc.)
2. How is funding provided to Houston per the proposed agreement? Should the Associations and/or other entities participate in the funding of the initial \$16 million payment to the City of Houston?
3. What is the impact of external rules and regulations in terms assignment/disposition of assets/liabilities (such as IRS regulations)?
4. How (and when) would assets, records, and recorded deeds and easements be transferred to another entity, considering this would require considerable expense and staff time to complete the legal processes mandated?
5. What is the future of The Woodlands Fire Department as a stand-alone non-profit organization? How might The Woodlands Fire Department transition to a new political subdivision?

Considerations related to contractual matters of the Associations

The Associations provide services with and/or through several third-party contracts. Some contracts exist with outside entities (such as the MUDs, county, TCID, or the Developer) while others bind individuals (such as the collective bargaining agreement with The Woodlands Fire Department staff.) The impact that any transfer of services would have on an existing contract needs to be investigated.

The following should be considered in terms of contractual matters:

1. What impact will the transfer of services to a new political subdivision have on current contracts with local entities/governments?
2. What impact will the transfer of services to a new political subdivision have on the labor agreement (and other collective bargaining provisions)?
3. What possibility is there for the new political subdivision to enter into a service agreement (not unlike that crafted under the MBA) with The Woodlands Community Service Corporation and/or The Woodlands Fire Department to provide services?
4. What kinds of contracts/agreements need to be established for and during any “transition” in providing services to the community?

Considerations related to Governing Structure

The Associations, through Service Agreement arrangements with The Woodlands Community Services Corporation and The Woodlands Fire Department, have facilities, equipment and a staff with considerable experience and expertise in providing municipal-type services to The Woodlands.

The following should be considered in terms of governance structure matters:

1. Could the new political subdivision contract with the Associations for the continued provision of services and use the sales tax (and potential property tax) resources to offset current ad valorem property assessments? To what extent would the development of a services agreement eliminate any uncertainty for staff currently providing services to The Woodlands? To what extent could a services agreement allow for a productive and seamless transition to a new political subdivision without interruption to service delivery?
2. To what extent will or should the Associations transfer certain services to a new political subdivision/governing entity (*see question #1, MBA*)?
3. What if the legislation endorsing the agreement with Houston passes, but the enabling legislation for the new political subdivision doesn't?
4. What kinds of powers will the new political subdivision have, if passed?