

Memorandum

Date: March 1, 2019

To: Mayor and City Council

Subject: City Services to Annexed Area



Last October, city staff initiated a review of current issues pertaining to the City's last involuntary annexation project. In 2015, approximately 212 acres located on the southeast side of town was annexed into the city limits. The area included the Texas Lost Pines Riding Club Arena, the Elgin Veterans of Foreign Wars Post 6115, and Bombshell Speed & Custom Shop, but the primary land use for the entire area was, and remains, single-family residential.

The annexation was done in compliance with state law; which ultimately compels the City to extend all city services to the area within five (5) years (consistent with the general level of services provided throughout the City). With one exception, the City has met the minimum requirement for the provision of such services, including law enforcement, trash/ recycling collection, street maintenance, planning, code enforcement, library, and other basic services (Water services are provided by the Aqua Water Supply Corporation.).

Wastewater/sanitary sewer services, however, have not yet been extended to the area; and, the City must now make a determination as to this final task - including if, how, and when wastewater services will be extended to this area as requested by the affected property owners.

As noted in the October staff report, this extension of wastewater services will represent a significant capital expense for the City. Said report also described a number of other challenges associated with this annexation; ultimately concluding that the City Council should pause to consider all current options and objectives before moving forward; including the possibility of dis-annexing some or all of the area:

"It should be noted that one (maybe the only) alternative . . . would be the possible dis-annexation of the area, returning it to Bastrop County's jurisdiction. Such an action would eliminate any concerns about capital costs or operational impacts. However, disannexation includes its own set of challenges and impacts – and would not be a simple task."

Throughout these most recent deliberations, the City Council and staff have discussed the overall situation in detail and have received new and/or updated information from various sources:

- This annexation required a commitment to extend services, however, no plans - nor funding – were developed at the time of the annexation to fulfill this obligation. Although a project was identified in the 2017 Five-Year Capital Plan, no funding for same was approved at that time (nor since).
- At the time of annexation, the primary objective of the City Council was largely to prevent further expansion north of the City of Bastrop's jurisdiction. Since then, however, state law has changed in such a way as to effectively eliminate this concern, as all cities are now essentially precluded from engaging in aggressive involuntary annexations.
- It was also thought that significant growth and development was imminent for that area at the time – a projection that has proven to be somewhat accurate – but only for a portion of the annexed area.
- Over the past few months, Council has received a variety of comments from citizens living in the area (who are presumed for the most part to be and/or represent property owners). A clear majority of those comments were in favor of some form of dis-annexation – although there are some residents/property owners who have also stated their desire to remain part of the City.

It is important to note in this regard, however, that even allowing for every comment heard or received, the Council has not yet heard from anywhere near the *majority* of the more than ninety (90) different owners of property that were included in this annexation.

- *Curbside Collection of Trash and Recycling* services have been provided to the area, but not uniformly to the entire annexed area and its residents. Some residents have stated that they have not received such services; and others have been allowed to decide for themselves whether or not they wanted these services; and yet others have apparently contracted with other service providers for trash collection – none of which complies with the applicable Ordinance and Franchise Agreement granted to the City’s designated service provider.

Moving forward, all residential properties that remain within the city limits will be (a) provided with the appropriate trash and recycling collection receptacles, (b) specifically designated as part of a regular weekly collection route, and (c) assessed a monthly fee for such services at the established rate. No other service providers will be permitted to provide trash collection services in the area.

- *Code Enforcement* remains an issue to be fully addressed within the annexed area - as it does throughout the City. All properties within this area were previously subject to county/rural standards; and the City has admittedly not been overly aggressive with code enforcement to this point in time.

However, the overall challenges associated with code enforcement within this area are no greater than in other parts of the City. The primary issues continue to be defining the desired level of enforcement and providing the resources required to achieve same. The efforts required to bring certain properties within the annexed area into full compliance with city codes will certainly require enhanced efforts and increased funding – but those same issues exist with various other properties and neighborhoods located throughout the City.

- *Land Development* within and adjacent to the annexed area continues to be an evolving situation. As noted previously, all development regulation of land within the annexed area had previously been maintained under county/rural standards, which are typically less stringent than cities. Essentially all development requirements (platting, subdividing, setbacks, parkland dedication, road construction, stormwater drainage, ROW donation, etc.) mandate higher minimum standards for projects within the City of Elgin than those located within unincorporated areas of Bastrop County. This situation has, and will continue to, pose certain challenges – and frustrations – for those property owners desirous of developing their property at the lower (and less expensive) standard.

- The *Trinity Ranch Municipal Utility District* (“MUD”) is a new major project that has recently come forward and represents a potentially impactful situation as it relates to the annexed area.

The City has executed a Letter of Intent with the developer of Trinity Ranch, a single-family residential MUD that is currently projected to include 1,600 residential units. Trinity Ranch will be located on 386 acres of land along Upper Elgin River Road. Although not currently adjacent, this project will be in close proximity to FM1704 within the annexed area. It seems quite likely that if a residential project the size and scope of Trinity Ranch were to be constructed at this location, significant servicing retail and/or supporting commercial business development would accompany it – and the logical location for that business development would be the FM1704 corridor.

In addition, Trinity Ranch will also be constructing a major expansion of the City’s wastewater collection system in support of its project. Given its proximity to the annexed area, city staff is hopeful that, through a partnership with Trinity Ranch, an alternative and more cost-effective extension of wastewater services to the annexed area can be accomplished.

- The initial staff report from last October stated that “total of all such property annexed . . . was 131 acres”, which is incorrect. The total number of land tracts annexed was 95; totaling just over 212 acres (and that number has now been revised to 197.5 acres, consistent with current tax records).

- Over the past three tax years (2016, 2017, & 2018), total City of Elgin property taxes assessed on those properties annexed as described herein was just under \$156,000.

Recommendation

Obviously, the overall challenge for the City at this time is to endeavor to achieve an appropriate balance of the various issues related to the current situation. It is the expressed, unanimous desire of the current City Council to be responsive to the citizens most directly affected by this situation. At the same time, however, Council also has an obligation to protect the overall interests of the City at large. It is with a focus on these two general issues that the following compromise plan of action is proposed:

I. Dis -Annexation

Based on the overall assessment of information discussed herein, the staff recommendation moving forward would essentially amount to “splitting the baby” as it relates to the overall territory annexed in 2015:

- *Retain all areas annexed in December, 2015* under Ordinance No. 2015-12-22-34 (as shown in the attached “Area 2”)
- *Dis-annex all areas annexed in August, 2015* under Ordinance No. 2015-08-04-22 (as shown in the attached “Area 3”), subject to the following.

With this approach, the railroad tracks/ROW would essentially become “the dividing line” and provide a natural boundary for the revised city limits. It would also provide the City with continued appropriate development control over the FM1704 corridor

In addition, including FM1704 as the only public roadway within the area to remain annexed would effectively eliminate any new road maintenance costs or responsibilities for the City – as this roadway is owned and maintained by the Texas Department of Transportation (TxDOT).

II. Settlement/Development Agreement

In exchange for agreeing to dis-annex all properties in “Area 3”, all benefitting property owners would be required to sign a settlement and/or development agreement similar to those previously executed but specifically stipulating that:

- The property would not be subdivided or otherwise developed.
- All development regulations and planning authority of the City would remain applicable (like all property located within the extraterritorial jurisdiction).
- Said property would only be used for single-family residential zoning uses and the owners would abide by single-family residential use requirements.
- No refund of property taxes or any other fees previously paid to the City would be sought.
- Any failure to abide by these conditions would constitute a petition for voluntary annexation.

Through this effort, the City would maintain its basic (and proper) control over any *significant* development that might occur in the future. Conversely, this compromise would provide property owners in this area with what many seem to desire: the ability to continue to live “as they are” without any control over current conditions – or taxation – by the City of Elgin.

An agreement of this type is essential to the City maintaining its development control over this area, as the existing extraterritorial jurisdiction (ETJ) can only be retained through a connection of property that is contiguous with the city limits.

III. Extension of Wastewater Services to “Area 2”

With the proposed dis-annexation of “Area 3 and the construction of the Trinity Ranch MUD, the extension of wastewater services to the remaining properties (“Area 2”) will be much more manageable and less expensive for the City.

Under this general scenario, the City Engineer's preliminary/conceptual cost estimate for design and construction of wastewater services to the properties currently identified as "Area 3" is \$2.2M.

Given the various development projects being discussed near or adjacent to the FM1704 corridor, however, various cost-sharing opportunities for this project may also be available to further reduce the City's investment in this project.

This proposed compromise would be in compliance with state law and the Elgin City Charter, as described by the City Attorney, insofar as certain procedural requirements are followed, to wit:

"Pursuant to Sec. 43.142 of the Texas Local Gov't code, Texas home rule cities are allowed to disannex an area in the city limits as may be provided by the Charter of said city. Elgin's charter states that the council may pass ordinances as may be "...expedient for the maintenance of good government, order and peace of the city."

The Charter further states that all such powers, whether expressed or implied, shall be exercised and enforced in the same manner prescribed by Charter; or when not prescribed herein, in such manner as shall be provided by ordinance or by the Council.

Pursuant to the charter and state law, the City shall hold two public hearings (after the provision of statutory notices) and thereafter act on an ordinance providing for the disannexation of the area in question."

Please let me know if you have any questions or would like to request additional information in this regard.



Thomas L. Mattis
City Manager

cc: Charlie Crossfield, City Attorney
Beau Perry, City Engineer
Doug Prinz, Director of Utilities
Melissa Lipiec, Planning and Development
Charles Cunningham, Director of Finance