



Travis County Commissioners Court Agenda Request

Meeting Date: January 17, 2012

Prepared By/Phone Number: Loretta Farb/854-9230

Elected/Appointed Official/Dept. Head: Commissioner Sarah Eckhardt

Commissioners Court Sponsor: Commissioner Sarah Eckhardt

AGENDA LANGUAGE: Consider and take appropriate action on an election for a pro rata assessment of adjacent property owners in conformity with Chapter 253 of the Transportation Code for the improvement of Rick Whinery Drive, Emmet Parkway and Quiet Pond Court in Wells Branch, Precinct 2.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Please see attached backup.

STAFF RECOMMENDATIONS:

Please see attached backup.

ISSUES AND OPPORTUNITIES:

Please see attached backup.

FISCAL IMPACT AND SOURCE OF FUNDING:

If approved, the County's source of funds would be from savings from past bond referendums, CO's issued for Substandard roads (1997) or the 2011 Bond program.

REQUIRED AUTHORIZATIONS:

Tom Nuckols, County Attorney's Office

Leroy Nellis, Jessica Rio, PBO

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, Cheryl.Aker@co.travis.tx.us by **Tuesdays at 5:00 p.m.** for the next week's meeting.

W2A Issue Summary

Issue: Travis County has NOT accepted W2A roads / sidewalks for maintenance resulting into responsibility for repair and liability for injury upon individual homeowners

History:

- Issue resulted due to lack of coordination between City of Austin (COA), Travis county and W2A developer Hallmark
- Neighborhood development, communication and paperwork (or lack thereof) occurred in early nineties to 1994
- KB homes acquired Hallmark in 1998 after which Hallmark entity was dissolved. It is not clear what liability KB assumed as a purchaser of Hallmark.
- This issue affects about 58 residential lots and 11 WB MUD lots

Current:

- A recent (last year) request to Travis County to repair sidewalks brought issue to the forefront.
- WB MUD is unable to repair the roads due to MUD bylaws in Texas
- Overall repair cost for the sidewalks and roads is estimated at \$210,000. County will accept the roads / sidewalks once they have been repaired.
- Under a special Travis County program with a 30% contribution (\$63,000) from the residents / WB MUD should be sufficient to complete the repairs. Rest of the money is provided by Travis County.
- Homeowners can pay in installments (approximately \$200/yr for 5 years) along with Travis County tax bill
- Legal avenues targeting Travis county and the KB homes have been explored and deemed not viable by MUD lawyers
- Communication has been established with KB homes to request full /partial funding of repairs.
- Resident committee has held several meetings with WB MUD management and with Travis County staff (commissioner, engineers, project managers and lawyers) to investigate and find a resolution for the issue

Future:

- Opportunity to meet with TC commissioner to ask questions and clarify proposed strategy (Jan 10)
- Present proposal to TC commissioners for approval (Jan 17)
- If approved by commissioner court, conduct election on proposed resolution and proceed according to election outcome. Election is decided by simple majority. Timeframe for this process is 3-6 months.
- Repairs will be made subsequently with final resolution of issue with acceptance by county.

**ELECTION TO LEVY ASSESSMENT FOR IMPROVEMENTS TO
RICK WHINERY DR., EMMETT PKWY., AND QUIET POND CT.**

1. What are the procedures and timeline for ballot by mail?

- Commissioners Court must hold public hearing.
- County must publish newspaper notice of hearing twice at least 30 days in advance.
- Within 10 days of hearing, County must send ballot and stamped return envelope to each "record owner" by certified mail. (County will base this on Travis Central Appraisal District records.)
- Each parcel gets one ballot.
- 30 days after the hearing, County Clerk tallies ballots received.
- Majority of ballots returned by the 30th day wins.

2. How to apportion the MUD's percentage of contribution (e.g. % of road frontage)?

- Statute says to assess costs "pro rata." Seems to allow assessing pro rata *based on road frontage*.

3. How/whether to cap the residents' cost?

- Statute says the ballot must state the "maximum assessment." Stating a dollar amount would comply with statute. Seems to allow stating "___% of actual costs."
- By stating "maximum," statute contemplates assessment can be lowered later if project comes in under budget, but not raised above maximum if project goes over.
- Statute says Commissioners Court may set "time, terms, and conditions of payment and default of an assessment," but may not charge interest.

4. Other issues.

- Assessment is secured by lien on each parcel. County must file notice of assessment/lien in deed records.
- The assessment is a personal debt of the owner.
- Need to determine if we can get the tax assessor/collector to add the assessment into the annual property tax bill or must bill for the assessment separately.
- Question: How does this affect homeowners' mortgages?

