

CITY OF SAN ANTONIO
External Relations Department
Interdepartmental Correspondence Sheet

AGENDA ITEM NO.

37

TO: Mayor and City Council

FROM: Jim Campbell, External Relations Director

COPIES: Terry M. Brechtel, City Manager; Robert Ojeda, Fire Chief; Emil Moncivais, Planning Director; Andrew Martin, City Attorney; File

SUBJECT: Emergency Services District #5

DATE: September 25, 2003

SUMMARY AND RECOMMENDATION

An ordinance approving the terms and conditions and authorizing the execution of an agreement with Bexar County which establishes certain terms by which the City of San Antonio will consent to the creation of Emergency Service District #5 within the City's ETJ for the provision by the District of fire suppression and emergency medical services for individuals residing within its boundaries.

Staff recommends approval of this ordinance.

BACKGROUND

In August of 1999, Bexar County, on behalf of petitioners in the unincorporated area near Converse, requested the use of the City's extraterritorial jurisdiction (ETJ) to create an Emergency Services District (ESD). ESDs were authorized in 1989 by the Texas Health and Safety Code to provide fire suppression and emergency medical services for individuals residing within such districts. Residents in these districts were given the authority to impose a tax on their property of up to ten cents per \$100 valuation, to fund operations of an ESD. Although these districts have been created in other Texas cities, this was the first such request for Bexar County.

City staff identified a couple of concerns regarding the creation of ESDs, including: 1) a requirement that a municipality compensate an ESD for the pro-rata share of the district's indebtedness at the time the area is annexed, and 2) a requirement that a municipality purchase from an ESD, at fair market value, any real or personal property used to provide emergency services in the area that is being annexed.

To address these concerns, City staff recommended the following guidelines that were later approved by City Council on February 17, 2000:

- The City recognizes the value of ESDs in providing enhanced levels of fire suppression and emergency medical services.
- The creation of an ESD should be consistent with the Annexation Program and Master Plan policies.
- The City should consider the feasibility of providing emergency services on a contractual basis, but should not subsidize costs associated with providing services in unincorporated areas.
- The City should oppose any action that would result in making future annexations more costly.

In 2000, state law did not allow a municipality or county to enter into an agreement with the petitioners of a proposed district that would later compel the ESD to honor commitments made prior to its formation. Additionally, if a municipality denied use of its extraterritorial jurisdiction, the ESD could still be formed by petition of at least 50 percent of the property owners of the proposed district, but only after the adoption of such a measure at a subsequent election.

In June 2000, the City received an application from property owners in the Camp Bullis area to create ESD #2. Two months later, City Council approved a Memorandum of Understanding (MOU) between the City of San Antonio, City of Converse and Bexar County that included implementation review procedures designed to address the City of San Antonio's concerns with the formation of ESD #1. The MOU included a moratorium provision on the creation of future ESDs, subject to the City's and County's efforts to amend state law granting the City greater authority to negotiate ESD limitations in exchange for having final approval on the use of the City's ETJ.

In August 2000, City Council approved the creation of ESD #1. The application for ESD #2, however, was placed on hold, in observance of the moratorium agreed to by the City and Bexar County to enact remedial legislation. The following year, the City and County successfully lobbied state lawmakers in passing HB 3191, which gave the City authority to have limited input, through the County, in the design of future ESDs.

On April 22, 2002 the City received a petition from property owners in northern Bexar County proposing the creation of ESD #3, which included a large portion of the area originally submitted in the application for ESD #2. The Council Intergovernmental Relations and Annexation committees reviewed the request and a major concern was identified. It was discovered that a portion of the district was located within the City's proposed 2002 Annexation Program, while another portion was part of the Cibolo Canyon Conservation District proposal.

Due to this apparent conflict, the City sent a letter to Bexar County asking that the petition for ESD #3 be withdrawn, pending resolution of the PGA Village election and the City's 2002 Annexation Plan. At the July 23, 2002, meeting of the Bexar County Commissioners Court, petitioners for ESD #3 agreed to withdraw their petition, pending clarification of the ESD's geographic boundaries.

After approval of the City's 2002 annexation program, and upon resolution of the PGA Village issue, City and County staff began negotiating an agreement to approve the formation of ESD

#3. It was the City's intent to use the language finalized in the ESD #3 agreement as a template for future ESD applications. During negotiations for ESD #3, petitioners for ESD #2 filed their application with the City and Bexar County in November 2002. On March 14, 2003, the City sent a letter to Marvin Kolar, who submitted the application on behalf of the ESD #2 petitioners, requesting that they postpone their request, without prejudice, until such time as the City and County had finalized their agreement on ESD #3.

On March 20, 2003, City Council adopted the terms and conditions that were set forth in its agreement with Bexar County regarding ESD #3. That same day, the Council Intergovernmental Relations Committee reviewed the ESD #2 agreement and directed City staff to move forward with the agreement as well as recommending its adoption by the full Council. City Council formally adopted the ESD #2 agreement on April 3, 2003.

POLICY ANALYSIS

On July 31, 2003, petitioners for ESD #5 submitted their application to the City of San Antonio and Bexar County, requesting approval to create an ESD in the southwestern part of the county, which includes territory in the City's ETJ.

City staff met with Bexar County and petitioners for ESD #5 on August 22, 2003, to review their application as well as to discuss several issues of concern to the City. Among these issues were the following that were conferred and agreed to:

- City staff informed the petitioners that if a Texas A&M campus were built within the district's boundaries, it would be voluntarily annexed by the City and, subsequently, disannexed from the district;
- City staff informed the petitioners that because the district's proposed boundaries extend beyond the City's ETJ, approval by the City was not required to include these areas within the district. Also, the petitioners were reminded that the proposed district lines overlapped the ETJs for the cities of Somerset and Lytle, and that approval was needed from both municipalities to complete their application;
- Petitioners indicated that once the district is created, they plan to contract with five area fire departments (Lytle, Somerset, Primrose, Jarret and Southwest) to provide district residents with fire suppression services; also, the petitioners stated that they did not anticipate the construction of any new facilities (i.e. fire stations) in the near future.

Having secured concurrence on the aforementioned issues, City staff is proposing for Council adoption an agreement with ESD #5 that contains the following provisions:

- Limits the amount of debt that ESD #5 can incur to \$20,000 without the consent of the City;
- Protects the City from becoming financially responsible for debts incurred by third-parties;
- Stipulates that any fire station constructed by ESD #5 will be located and built with the concurrence of the Chief of the San Antonio Fire Department;
- Requires that equipment purchased by ESD #5 be compatible with City equipment;

- Allows the Chief of the San Antonio Fire Department, or his designee, to serve in an ex-officio capacity on the board of directors of ESD #5;
- Mandates Bexar County to seek input from the City regarding the qualifications of applicants for membership on the board of ESD #5;
- Allows the City an opportunity to interview and recommend applicants to the board of ESD #5;
- Requires ESD #5 to enter into a regional mutual aid agreement; and
- Grants the City the authority, upon its request to the board of ESD #5, to have any City-owned property removed from within the district's boundaries if that property was previously annexed by the City and was included in the district at the time of its creation.

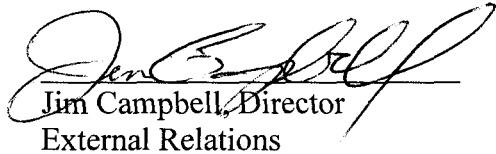
Each of these provisions will be included on the ballot proposition to approve the creation of ESD #5. The election will be held in 2004. No definite date has been decided at this time. All costs pertaining to the election will be paid by Bexar County.

FINANCIAL IMPACT

Creation of ESD #5 will have no immediate impact on the City's General Fund, but could make future annexations more expensive.

COORDINATION

This item has been coordinated with the City Attorney's Office, Finance, Management and Budget, Planning, and the San Antonio Fire Department.


Jim Campbell, Director
External Relations

Approved by:


Terry M. Brechtel
City Manager