

Agenda Item #33

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
CITY MANAGER'S OFFICE**

**TO:** Mayor and City Council

**FROM:** Melissa Byrne Vossmer, Assistant City Manager

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Christopher J. Brady, Assistant City Manager; Thomas G. Wendorf, P.E., Director of Public Works; Malcolm Matthews, Director of Parks and Recreation; Peter Zanoni, Interim Director, Office of Management and Budget; Milo Nitschke, Director of Finance; Andrew Martin, City Attorney; Leticia Vacek, City Clerk

**SUBJECT:** Resolution of Support – Sales Tax Use for the Acquisition of Open Space and Linear Parks Along Leon Creek, Salado Creek, Medina River and San Antonio River

**DATE:** August 19, 2004

**SUMMARY AND RECOMMENDATIONS**

Consider adopting a resolution for support directing staff to draft a letter to the State Comptroller requesting a determination of whether the passage of an 1/8th cent sales tax for the acquisition of open space and linear parks along Leon Creek, Salado Creek, Medina River and San Antonio River would negatively impact the state's sales taxes.

Staff recommends approval of this resolution.

**BACKGROUND**

At the August 12 City Council meeting staff was directed to bring back to the Council on August 19 an agenda item that would provide the opportunity for Council to consider moving forward with a second proposition under Local Government Code, Chapter 334. This second proposition is to address the acquisition of open space and linear parks along Leon Creek, Salado Creek, Medina River and San Antonio River. The proposed Edwards Aquifer Protection Venue Project ordinance calling the election, also on the agenda today, does not include acquisition for this purpose and as such, requires that a new venue project be established by the City Council.

To comply with Texas Government Code, Chapter 334, in establishing a venue project, a resolution must be adopted by the City Council asking the State Comptroller for a determination as to whether the proposed Parks Development and Expansion Venue Project, a dedication of \$45 million through a sales tax of 1/8th cents for the purchase of

open space and linear parks, will have a negative impact on any state sales taxes. It is important to note that this is not an additional 1/8th cents sales tax. If placed on the ballot with the Edwards Aquifer Protection Venue Project, the 1/8th cents will be shared with and used for both venue projects, as they are both Texas Government Code, Chapter 334 allowed venues.

If approved today by the City Council, staff will immediately forward the necessary letter, copy attached, to the State Comptroller asking for a determination. Staff has already initiated discussions with the State Comptrollers Office about the possibility of a second request for a determination under Texas Government Code, Chapter 334. Once the determination is received, the Council can direct staff to bring back an ordinance placing this item on the ballot. It should be noted that if both the Aquifer Protection Venue Project Initiative and the Parks Development and Expansion Venue Project are placed on the same ballot as two separate questions, then the previously approved Edwards Aquifer Protection Venue Project Initiative proposition language will need to be modified to show the two propositions sharing the 1/8th cent.

By way of additional background, on May 6, 2000 San Antonio voters approved the collection of a 1/8th cents sales tax to collect up to \$65 million dollars for the purchase of property to create linear parks along the Leon and Salado Creeks and to purchase sensitive land over the Edwards Aquifer. The collection of the 1/8th cent approved in May 2000 was discontinued on July 1, 2004 as the goal of collection of up to \$65 million dollars had been reached. The funds from the approved 1/8th cent sales tax were to be allocated as follows:

- \$20 million to create linear parks along the Leon and Salado Creeks
- \$45 million to purchase sensitive land over the Edwards Aquifer
  - \$40.5 million for land purchases and appropriate development
  - \$ 4.5 million escrow for maintenance and operations of acquired land

With Council approval of this resolution, staff will immediately forward to the State Comptroller the attached letter requesting a determination as to whether the proposed Parks Development and Expansion Venue Project, dedicating up to \$45 million through a shared sales tax of 1/8th cent for the purchase of open space and linear parks will have a negative impact on any state sales tax.

### **POLICY ANALYSIS**

Approval of this resolution continues the past practice to provide a mechanism for acquisition of open space and linear parks.

### **FISCAL IMPACT**

When the original program was developed in 2000, the priority was the immediate acquisition of property over the Edwards Aquifer due to the sensitivity of the land as well as escalating land prices. The Linear Creekway Program, funded at \$20 million dollars, delineated further between the two target programs with \$12 million allocated for the Salado

Creekway and \$8 million allocated for the Leon Creekway. At this time, \$18.7 million remains available. However, 204 properties have been identified for acquisition.

If the direction by Council is to ultimately call an election for this purpose, a more recent cost for the special election on February 5, 2005 is estimated to be approximately \$375,000, which is included in the proposed FY 2004-2005 budget. It should be noted that until the number of entities calling an election and final identification of the polling sites is determined, an exact amount would not be finalized.

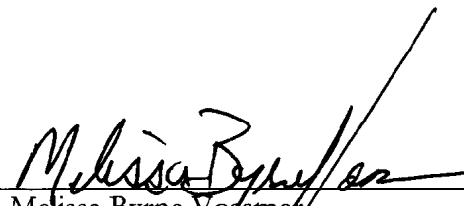
If the Council ultimately calls for an election for this purpose in May 2005, this coincides with a regularly scheduled City of San Antonio election. The May 2005 election is anticipated to cost \$390,000 and is included in the proposed FY2004-05 budget.

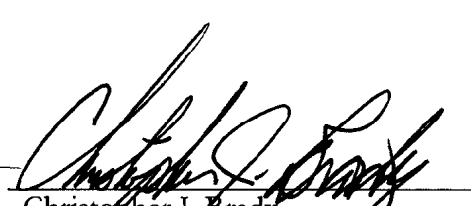
It is estimated that it would take approximately 3 years to collect the proposed \$45 million for this purpose. If the Aquifer Protection Venue Project Initiative and the Parks Development and Expansion Venue Project were both placed on the same ballot and the voters approve both, it would take approximately 8.5 years to collect the combined \$135 million.

If approved, the property acquired through this tax will need to be developed, maintained and operated in the future. The original Proposition 3 program recognized the need to provide operations and maintenance funds for care of the acquired property at a level of 10%. It has been suggested that an amount of \$5 million be designated for this purpose from the proceeds.

### **COORDINATION**

This item has been coordinated with the City Clerk's Office, City Attorney's Office, Finance Department, Public Works Department, Office of Management and Budget and Parks and Recreation.

  
Melissa Byrne Vossmer  
Assistant City Manager

  
Christopher J. Brady  
Assistant City Manager

Approved:

  
Terry M. Brechtel  
City Manager

**LETTERHEAD OF CITY MANAGER**

August 19, 2004

VIA FACSIMILE (512) 475-1559

The Honorable Carole Keeton Strayhorn  
Comptroller of Public Accounts  
Attn: Mr. John Heleman and Ms. Shannen Owens  
Revenue Estimating Division  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78701

RE: CITY OF SAN ANTONIO VENUE PROJECT; RESOLUTION SUBMISSION UNDER  
CHAPTER 334, TEXAS LOCAL GOVERNMENT CODE

Dear Comptroller Keeton Strayhorn:

Enclosed please find a copy of Resolution No. 2004- \_\_\_\_ - \_\_\_\_ (the Resolution”), approved today, August 19, 2004, by the City Council of the City of San Antonio (the “City”). The Resolution designates a proposed venue project and method of financing in accordance with Chapter 334, Texas Local Government Code (“Chapter 334”).

In this Resolution, the City designates a Parks Development and Expansion Venue Project, which provides for the acquisition of land for open space and linear parks along Leon Creek, Salado Creek, Medina River and San Antonio River, and for improvements and additions to the Municipal Parks and Recreation System, under Section 334.001(4)(D). The City plans to call an election to be held on either February 5, 2005 or May 7, 2005, in accordance with the provisions of Chapter 334, to approve this Venue Project, along with the Edwards Aquifer Protection Venue Project, which was approved for implementation by your Office. Both Venue Projects are proposed to be financed by a collective maximum rate not to exceed 1/8 of 1% of sales and use tax.

Before the City may call an election, however, it must receive a determination from your Office that the approval and implementation of the Resolution will not have a significant negative fiscal impact on state revenue. Accordingly, we respectfully request the results of such an analysis as expeditiously as possible.

Please note that the proposed sales tax election will ask the voters to approve a 1/8¢ "Chapter 334" sales and use tax. A tax in the same amount was approved by the voters in May, 2000 for a similar primary purpose. In early 2000, your Office conducted a similar fiscal review

for a 1/8¢ sales and use tax increase and found no negative state fiscal impact. As noted above, the City recently sought a determination from your Office on the Edwards Aquifer Protection Venue Project. By letter dated August 11, 2004, you determined that the implementation of the Edwards Aquifer Protection Venue Project, designated pursuant to Resolution No. 2004-27-23 on August 5, 2004 by the City Council, would not have a significant negative fiscal impact on state revenue.

Thank you for your consideration and assistance in this matter. Should you have any questions or need any further information, please do not hesitate to contact Melissa Byrne Vossmer, Assistant City Manager, at 210-207- 7080.

Sincerely yours,

Terry Brechtel,  
City Manager