

CONSENT AGENDA  
ITEM NO. 16

**CITY OF SAN ANTONIO  
CITY ATTORNEY'S OFFICE  
CITY COUNCIL AGENDA MEMORANDUM**

**TO:** Mayor and City Council

**FROM:** Andrew Martin, City Attorney

**SUBJECT:** Ordinance approving the Settlement of All Annexation and Extraterritorial Jurisdiction Area Disputes Between the City of Boerne and the City of San Antonio.

**DATE:** March 3, 2005

**SUMMARY AND RECOMMENDATIONS**

This Ordinance approves the terms of the Compromise, Settlement and Mutual Release Agreement ("Settlement Agreement") between the City of Boerne and the City of San Antonio resolving all annexation and extraterritorial jurisdiction area disputes between these parties outlined in Cause No. 98-005; City of Boerne v. City of San Antonio, in the 216<sup>th</sup> Judicial District Court of Kendall County, Texas. This Ordinance further approves the terms of the agreed Final Judgment attached to the Settlement Agreement; authorizes the Mayor and Interim City Manager to execute the Settlement Agreement; and also authorizes the City Attorney to execute the Settlement Agreement and agreed Final Judgment.

Staff recommends approval of this Ordinance.

**BACKGROUND INFORMATION**

This action resolves an 18 year old legal dispute between the City of Boerne and the City of San Antonio. The City Council of the City of Boerne approved the Settlement Agreement at its regular meeting on Tuesday, February 22, 2005.

The City of San Antonio annexed an area along the right-of-way of F.M. 3351 (Ralph Fair Road) in Bexar County, Texas in December 1987. At about the same time, the City of Boerne accepted certain areas and properties into its extraterritorial jurisdiction (ETJ) by the voluntary written request of numerous property owners in Bexar, Comal and Kendall Counties, Texas. As a result of its annexation, the extraterritorial jurisdiction of San Antonio was extended five (5) miles from its new city limits farther into Bexar County and into Comal and Kendall Counties. Similarly, as a result of the areas accepted by Boerne into its ETJ and the extension of the ETJ of San Antonio, the ETJ claimed by each municipality overlapped the ETJ claimed by the other municipality in certain areas of Bexar, Comal and Kendall Counties. Boerne and San Antonio each disputed the claim of the other municipality that its ETJ was valid and first in time in the overlapping areas.

Boerne filed a declaratory judgment suit on January 7, 1998 in the 216<sup>th</sup> Judicial District, Kendall County to determine the validity of its extraterritorial jurisdiction in the areas of dispute.

The Judge of the 216<sup>th</sup> District Court of Kendall County entered a final judgment on May 22, 2000. His decision established the boundaries of Boerne's extraterritorial jurisdiction in Boerne's favor and San Antonio appealed this judgment. The Texas Supreme Court in 2003 held that certain county roads in Kendall and Comal Counties could not legally be included in Boerne's extraterritorial jurisdiction and

CITY COUNCIL

Page 2

March 3, 2005

remanded the case to the trial court to determine new boundaries for Boerne's extraterritorial jurisdiction in conformity with the Supreme Court's ruling.

The trial court ordered Boerne and San Antonio to mediation in late 2004. At mediation, Boerne and San Antonio reached the agreement embodied within the proposed Settlement Agreement.

Under the terms of the proposed Settlement Agreement, Boerne and San Antonio have agreed to new ETJ boundaries, which comply with the Texas Supreme Court order and are satisfactory to both cities. Each city will bear its own costs for attorney's fees and engineering expenses.

**POLICY ANALYSIS**

The approval of the terms of the proposed Settlement Agreement and agreed Final Judgment is in the best interest of the health, safety and general welfare of the citizens of the City of San Antonio.

**FISCAL IMPACT**

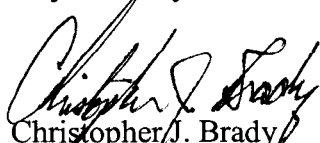
The Ordinance will have no financial impact.

**COORDINATION**

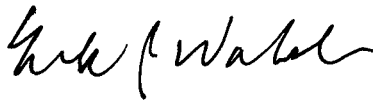
This Ordinance was coordinated the Planning Department.




Andrew Martin  
City Attorney



Christopher J. Brady  
Assistant City Manager



 J. Rolando Bono  
Interim City Manager