



**City of New Fairview  
City Council  
Special Called Meeting  
999 Illinois Lane  
Monday, January 8, 2024, at 7:00 pm**

**WORK SESSION**

1. Call to Order and Determination of Quorum
2. Receive a report and hold a discussion regarding recent water and wastewater developments.
3. Adjournment

**REGULAR SESSION**

1. Call to Order and Determination of Quorum
2. Pledge to the Flags.
  - A. United States of America
  - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limit on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

- A. Approve the City Council Meeting minutes for December 4, 2023.**
- B. Approve the September 2023 Financial Reports.**
- C. Approve the October – December 2023 Quarterly Financial Report.**

**7. New Business:** All matters listed in New Business will be discussed and considered separately.

- A. Receive, consider, and act on approving an Interlocal Agreement with Upper Trinity Groundwater Conservation District.**
- B. Hold a public hearing for the completion of the TxCDBG 2021-22 project.**
- C. Receive, consider, and act on appointing members to the Planning and Zoning Commission.**

**8. Executive Session:** Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

- A. § 551.071(2): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding:**
  - 1. City Secretary**
  - 2. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane**
- B. §551.074: (a) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Secretary.**
- C. Section 551.072: to deliberate the purchase, exchange, lease, or value of real property.**
  - 1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.**

**9. Return to Open Session:** Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

**10. Mayor & Council Member Announcements:** The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

## 11. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 5<sup>th</sup> day of January, 2024 at 5:00 PM at least 72 hours proceeding the meeting time.

  
Brooke Boller, City Secretary

SEAL:



This facility is wheelchair accessible; parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at [citysecretary@newfairview.org](mailto:citysecretary@newfairview.org) for further information.



## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

January 8, 2024

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### Water and Wastewater Update

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#### **DESCRIPTION:**

Receive a report and hold a discussion regarding water and wastewater needs and opportunities.

#### **BACKGROUND INFORMATION:**

On October 17, 2022, the City Council had a workshop discussion regarding the water and wastewater needs. There was discussion regarding the fact that a few years back, the City was approached by some developers interested in the construction of mixed-use developments and inquired about the City's capability of providing water and wastewater treatment services for these planned developments. The City does not own and operate any public water and public wastewater system, and in fact does not hold a Certificate of Convenience and Necessity (CCN) for both water and wastewater. As a result, the City contracted with Schaumburg & Polk, Inc (SPI) to investigate the feasibility of creating and operating a City owned water and wastewater system and obtaining a CCN for both of these services. The developers of Constellation Lake and Shoop Ranch were asked to help fund this feasibility study.

SPI submitted their final report to the City in April 2021, where they considered numerous options for source water, including two options for purchasing treated water from Upper Trinity Regional Water District (UTRWD) and the City of Fort Worth. The City of Fort Worth is updating their Northside Water Master Plan, the City was recently informed that Fort Worth will not provide wholesale water to New Fairview in the foreseeable future. Fort Worth is struggling just to keep up with water demands in their city due to current and projected growth.

On November 13, 2023, Mayor Taylor, Mayor Pro Tem King, the City Engineer, and the City Administrator met with the Justin Mayor and City Administrator and executives from the UTRWD. The discussion revolved around what it would take to have water provided to New Fairview from UTRWD through the City of Justin's water infrastructure. UTRWD is in the process of reviewing their water capacity once some of their capital projects come online in 2025 and

2026. We are scheduled to meet again on or before March 2024 to discuss their findings as this will determine their ability to provide water to us, and timing for providing water.

The City of Justin also has the capacity to provide wastewater service to the Constellation Lake development because the topography and pressure plane lends itself for the purpose. We have had discussion with the City of Justin and the Constellation Lake developer on this and will require some more research, but all parties are working towards making this happen once the water issues are resolved with UTRWD. Shoop Ranch does not need wastewater service because they are constructing their own wastewater treatment plant as part of their development.

On December 12, the Mayor, Mayor Pro Tem, and city staff met with the developers of Constellation Lake and Shoop Ranch to begin discussion on the types of agreements needed to have the developers for cost sharing of utility easements and the infrastructure needed to extend water from the City of Justin into the city limits. There will also be storage and pumping costs in order to be able to provide water to these two developments. There will also be a few Interlocal Agreements (ILA's) with the City of Justin and UTRWD needed as well. Staff will keep the council updated on any progress from these discussions.

The SPI report also recommended that the City pursue the acquisition of both water and wastewater CCN's immediately. The City Council approved a contract for \$29,000 on March 15, 2021 with SPI to complete an application for the acquisition of a Certificate of Convenience and Necessity (CCN) for water and wastewater systems. The Council also authorized the City Administrator to execute reimbursement agreements to include the \$40,000 contribution with the developers for Constellation Lake and Shoop Ranch. SPI has completed a significant portion of the work needed for the application, but apparently had been told by the City to stop their work in the summer of 2021. Staff recently met with SPI to determine what is needed to get the application process moving forward again. The following action items are necessary to complete the project:

- Get reacquainted with the project and recover status.
- Check all maps that have been created and make necessary revisions, if any, due to changes that may have occurred over the past two years.
- Renew communications with the PUC and the TCEQ.
- Re-initiate CCN applications for water and wastewater and complete applications (make water a priority). This will require participation and assistance from the City, especially regarding financial statements required by the PUC.
- Complete GIS maps for proposed CCN's in accordance with PUC requirements.
- Re-initiate and complete Report to TCEQ for justifying registration of New Fairview as a public water supply system.

On November 29, 2023, Mayor Taylor hosted the Wise County Mayors Coalition meeting. At this meeting the Mayors received information from Doug Shaw, Upper Trinity Groundwater Conservation District (UTGCD) General Manager, on their recent study on regional water supply

and facilities planning. They also heard from Snapper Carr, Focused Advocacy General Consul, the steps needed to draft legislation and work it through the legislative process if we wish to have successful passage of a bill. The Mayors are considering creating a Regional Water District to help address bringing in water to southeast Wise County instead of continuing to deplete the underground water.

**FINANCIAL CONSIDERATION:**

The only immediate financial impact is the fee amendment to the SPI contract in order to complete the application process for a CCN for water and wastewater systems. The City recently received the additional amount required by SPI in order to reactivate the CCN application process, and they are requesting an additional \$4,280. SPI has already billed the City \$20,500 from the \$29,000 approved contract, therefore there is \$9,200 remaining, and the addition of the \$4,280 leaves a balance of \$13,480 needed to complete the CCN filings.

**RECOMMENDED MOTIONS:**

None, discussion only.

**ATTACHMENT(S):**

1. Amendment #1 to Engineering Agreement.

## AMENDMENT #1 TO ENGINEERING AGREEMENT

Schaumburg & Polk, Inc. (SPI), hereinafter called the "Firm," entered into an agreement with the **City Of New Fairview, Texas**, hereinafter called the "City", on the 30<sup>th</sup> of March, 2021, for the purpose of providing professional engineering services related to the Obtain CCN Project. Work was stopped at the City's direction in the summer of 2021. The City now wishes to re-start and complete the project. The Engineer hereby requests additional compensation to re-initiate and complete the project based on the following reasons:

1. the increase in hourly labor rates resulting from inflation over the past two years for remaining work to be done
2. the additional manhours needed to become re-acquainted with the project due to the lengthy period of interruption in the project schedule
3. the additional manhours needed to restore communications with the Public Utility Commission (PUC) and the Texas Commission on Environmental Quality (TCEQ)
4. the additional hours needed for proof checks to confirm that maps prepared and data collected two years ago are still valid

Therefore it is necessary to amend the referenced original agreement. The said agreement is hereby amended ("**Amendment #1**") upon the mutual consent of both parties. The original agreement shall remain intact fully except for those parts specifically omitted, added to, or revised by Amendment #1, and as follows:

**Section 7.01, Basis of Payment - Lump Sum, paragraph A** shall be replaced with the following:

Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer lump sum fee amount as follows (revisions resulting from Amendment #1 are in bold type):

1. Acquire CCNs for Water and Wastewater amount of	\$ 29,200.00
2. <b><u>Additional services amount of (Amend #1)</u></b>	<b><u>\$ 4,280.00</u></b>
3. <b>Total Amended Fee Amount</b>	<b>\$ 33,480.00</b>

IN WITNESSETH WHEREOF, the parties have executed this Amendment to the original Agreement by causing the same to be signed on the day and year first above written.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Local City Official)  
\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Title)

BY: Franklin Stephens, P.E. DATE: January 4, 2024  
(Firm's Authorized Representative)  
Franklin Stephens, P.E.  
(Printed Name)  
Vice-President  
(Title)





**City of New Fairview  
City Council  
Regular Meeting Minutes  
999 Illinois Lane  
Monday, December 4, 2023, at 7:00 pm**

**CITY COUNCIL  
Mayor John Taylor  
Mayor Pro Tem Steven King  
Place 1 Councilman Harvey Lynn Burger  
Place 3 Councilwoman Sarah Adams  
Place 5 Councilman Richard Greene**

**City Staff  
John Cabrales Jr, City Administrator  
Brooke Boller, City Secretary  
Roberta (Robin) Cross, City Attorney – Virtual**

**Absent  
Place 2 Councilman Peter Kozlowski**

**REGULAR SESSION**

1. Call to Order and Determination of Quorum
2. Pledge to the Flags.
  - A. United States of America
  - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
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6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.
  - A. Approve the City Council Meeting minutes for November 6, 2023.
  - B. Approve the September 2023 Financials. ----- **Removed**  
**Motion: Councilman Richard Greene**  
**Second: Mayor Pro Tem Steven King**  
**Vote: All in Favor**  
**Result: Council approved the City Council Meeting minutes from November 6, 2023.**
  
7. New Business: All matters listed in New Business will be discussed and considered separately.
  - A. Receive, consider, and act on a Resolution awarding the drainage improvement project for the installation of drainage culverts and headwalls within the Chisholm Hills Subdivision, along Lange Way, Hilltop Trail, Aydelotte Court, and Chisholm Hills Drive, to 3H Concrete, Inc. for a total of \$343,349.80, and establish a not-to-exceed project contingency of \$400,000.  
**Motion: Mayor Pro Tem Steven King**  
**Second: Councilwoman Sarah Adams**  
**Vote: All in Favor**  
**Result: Council approved a Resolution awarding the drainage improvement project for the installation of drainage culverts and headwalls within the Chisholm Hills Subdivision, along Lange Way, Hilltop Trail, Aydelotte Court, and Chisholm Hills Drive and Graham Road, to 3H Concrete, Inc. for a total of \$343,349.80, and establish a not-to-exceed project contingency of \$400,000.**
  - B. Receive, consider, and act on a Resolution awarding the 2023-B Vehicle Bid for a Public Works Department truck to Denton Chrysler, Dodge, Jeep, Ram for \$72,520, and authorize the City Administrator to execute the contracts.  
**Motion: Councilman Richard Greene**  
**Second: Mayor Pro Tem Steven King**  
**Vote: All in Favor**  
**Result: Council approved a Resolution awarding the 2023-B Vehicle Bid for a Public Works Department truck to Denton Chrysler, Dodge, Jeep, Ram for \$72,520, and authorize the City Administrator to execute the contracts.**
  - C. Receive, consider, and act on the 2024 City Council Meeting Calendar.  
**Motion: Councilwoman Sarah Adams**  
**Second: Mayor Pro Tem Steven King**  
**Vote: All in Favor**  
**Result: Council approved the 2024 City Council Meeting Calendar as presented by the City Secretary.**
  - D. Receive, consider, and act on a Resolution for the canceling of the December 18, 2023, Regular City Council Meeting, and rescheduling the January 1, 2024 Regular City Council Meeting to January 8, 2024.  
**Motion: Councilwoman Sarah Adams**  
**Second: Councilman Harvey Lynn Burger**  
**Vote: All in Favor**

**Result: Council approved a Resolution for the cancellation of the December 18, 2023, Regular City Council Meeting, and rescheduling the January 1, 2024 Regular City Council Meeting to January 8, 2024.**

8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.
  - A. Hold a discussion regarding possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.
    - **Tabled**
9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
10. Mayor & Council Member Announcements: The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
11. Adjournment

**Motion: Councilman Richard Greene**  
**Second: Councilwoman Sarah Adams**  
**Vote: All in Favor**  
**Result: Council meeting was adjourned at 8:17pm.**

**MINUTES APPROVED ON THIS, THE 8TH DAY OF JANUARY 2024**

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**John Taylor, Mayor**

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**Brooke Boller, City Secretary**

### First Quarter 2023-2024 Investment Report

Month		Beginning Balance	Contributions	Ending Balance	Interest	Withdrawals
October 2023						
	TX Class Account Prime	\$552,923.825	\$0.00	\$455,461.86	\$2,538.04	\$100,000.00
	Transportation Impact Fee	\$245,613.14	\$0.00	\$246,774.44	\$1,161.30	\$0.00
	Judicial Fund	\$24.58	\$0.00	\$24.68	\$.04	\$0.00
	Municipal Court Building Fund	\$3,694.79	\$0.00	\$3,712.25	\$17.46	\$0.00
	Truancy P&D Fund	\$1,839.80	\$0.00	\$1,848.49	\$8.69	\$0.00
	Municipal Court Tech Fund	\$2,438.51	\$0.00	\$2,450.00	\$11.49	\$0.00
	CIP Fund	\$3,745,856.683	\$0.00	\$3,763,568.39	\$17,711.71	\$0.00
	TPWD- Small Parks Grant Fund	\$149,278.37	\$0.00	\$149,984.21	\$705.84	\$0.00
	Debt Service Fund	\$48,650.85	\$0.00	\$48,880.90	\$2,967.61	\$0.00
	TDEM	\$752.03	\$0.00	\$755.56	\$3.53	\$0.00
November 2023						
	TX Class Account Prime	\$455,461.86	\$0.00	\$457,557.56	\$2,095.70	\$0.00
	Transportation Impact Fee	\$246,774.44	\$0.00	\$247,909.90	\$1,135.46	\$0.00
	Judicial Fund	\$24.62	\$0.00	\$24.67	\$0.05	\$0.00

	Municipal Court Building Fund	\$3,712.25	\$0.00	\$3,729.33	\$17.08	\$0.00
	Truancy P&D Fund	\$1,848.49	\$0.00	\$1,856.94	\$8.45	\$0.00
	Municipal Court Tech Fund	\$2,450.00	\$0.00	\$2,461.31	\$11.31	\$0.00
	CIP Fund	\$3,763,568.397	\$0.00	\$3,780,885.46	\$17,317.07	\$0.00
	TPWD- Small Parks Grant Fund	\$149,984.21	\$0.00	\$150,674.33	\$690.12	\$0.00
	Debt Service Fund	\$48,880.90	\$0.00	\$49,105.83	\$224.93	\$0.00
	TDEM	\$755.56	\$0.00	\$759.11	\$3.55	\$0.00
December 2023						
	TX Class Account Prime	\$457,557.56	\$0.00	\$459,719.03	\$2,171.36	\$0.00
	Transportation Impact Fee	\$247,909.90	\$0.00	\$249,086.36	\$1,176.46	\$0.00
	Judicial Fund	\$24.67	\$0.00	\$24.73	\$0.06	\$0.00
	Municipal Court Building Fund	\$3,729.33	\$0.00	\$3,747.00	\$17.67	\$0.00
	Truancy P&D Fund	\$1,856.94	\$0.00	\$1,865.69	\$8.75	\$0.00
	Municipal Court Tech Fund	\$2,461.312	\$0.00	\$2,473.03	\$11.72	\$0.00
	CIP Fund	\$3,780,885.463	\$0.00	\$3,798,827.69	\$17,942.23	\$0.00
	TPWD- Small Parks Grant Fund	\$150,674.33	\$0.00	\$151,389.38	\$715.05	\$0.00
	Debt Service Fund	\$49,105.83	\$0.00	\$49,338.87	\$233.04	\$0.00
	TDEM	\$759.11	\$0.00	\$762.77	\$3.66	\$0.00



## CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

January 8, 2024

### Interlocal Agreement with Upper Trinity Groundwater Conservation District

#### **DESCRIPTION:**

Receive, consider, and act on approving an Interlocal Agreement with Upper Trinity Groundwater Conservation District.

#### **BACKGROUND INFORMATION:**

During the Regular Session of the 88<sup>th</sup> Texas Legislature, Senate Bill 2440 (attached) was passed into law. According to the bill analysis, there have been many instances around the state where new housing developments are being built and groundwater is stated as an available resource. There is no guarantee that groundwater is actually there and many people who are buying their retirement home or their first home are stuck without water. S.B. 2440 amends current law relating to a requirement that certain plats for the subdivision of land include evidence of groundwater supply. This new law went into effect on January 1, 2024.

The new law amends Sections 212 and 232 of the Texas Local Government Code by requiring that any plat application for the subdivision of a tract of land certify adequate groundwater availability for that subdivision.

Section 212.0101 (a)

“... a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land must have attached to it a statement that:

- (1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and
- (2) certifies that adequate groundwater is available for the subdivision.”

This means that going forward, a subdivision plat applicant must use the form (Certification Statement) created by the state, and it must be prepared by a Texas licensed professional engineer or a Texas licensed professional geoscientist. The City must then review this Certification Statement from a plat applicant, in the city limits or in the Extraterritorial Jurisdiction, and certify that adequate groundwater is available for the subdivision in accordance and in compliance with the rules of the Texas Commission on

Environmental Quality (TCEQ) set forth in Title 30 of the Texas Administrative Code, Chapter 230. Unfortunately, the City does not have the expertise to review Certification Statements and make this determination.

The Upper Trinity Regional Groundwater Conservation District (UTGCD) has several licensed professional geoscientists on staff and has exclusive jurisdiction and the sole discretion to take action regarding groundwater-related water well registration and permit applications in Wise County. They are interested into entering into an Interlocal Agreement (ILA) (attached) with the City to conduct the review of Certification Statements and certify that a proposed subdivision has adequate groundwater availability and has demonstrated the ability to comply with UTGCD's rules, including but not limited to minimum tract size, well spacing, and applicable well capacity and groundwater production limits.

The City would agree to implement a requirement in the platting process that shall require a plat applicant seeking to subdivide a municipal tract for which groundwater is intended to be the source of supply to provide a completed Certification Statement to the City, the UTGCD, and the Texas Water Development Board. Further, the plat applicant shall be directed to submit to the UTGCD the completed Certification Statement all information, data, and calculations performed or relied on in completing the Certification Statement. The City will also need to amend its plat review process to require the final approved Certification Statement report before a plat application is deemed complete and the thirty-day (30) "shot clock" for approval of the plat begins. This is important because it could take several months before all the data is compiled, reviewed, and approved needed in the Certification Statement.

The City will not begin the review of any plat application seeking to subdivide a municipal tract, for which groundwater is intended to be the supply source, until UTGCD has furnished the City with a final Certification Statement prepared by the plat applicant, and any necessary accompanying documents, along with the UTGCD's report, 1) setting forth their assessment as to whether the Certification Statement sufficiently complies with TCEQ's rules, 2) sufficiently certifies that sufficient groundwater is available to serve the municipal tract subdivision as proposed by the plat applicant, and 3) that the plat applicant has demonstrated that the groundwater well(s) it proposes to supply groundwater to the municipal tract will be able to comply with the UTGCD's rules without the need for the plat applicant to obtain any exception to the minimum tract size or well spacing requirements of the UTGCD's rules.

Upon receipt of notice from the City regarding a proposed plat requiring a Certification Statement the UTGCD agrees that they shall meet with the plat applicant to provide an overview of the timeline, process, and requirements for the UTGCD's review. UTGCD shall also make staff available, at the earliest convenience, to inspect any existing well(s), provide information to the plat applicant in their decision making in the design of any new well drilled for the purpose of the aquifer test, and utilize UTGCD's resources to conduct a downhole geophysical log of any well on the property, and provide any other assistance or oversight, during the aquifer test, as deemed appropriate.

Within ten business days, of UTGCD's receiving Applicant's Certification Statement by, UTGCD shall review and assess whether the information in the Certification Statement both sufficiently 1) sufficiently complies with TCEQ's rules set forth in Title 30 of the Texas Administrative Code, Chapter 230, and 2) sufficiently certifies that adequate groundwater is available for the proposed subdivision. The UTGCD shall complete its review of the plat applicant's Certification Statement and deliver its report along with the final Certification Statement to the City not later than ten (10) business days after the date the final

Certification Statement and all required accompanying information and GAC Review Fee are received by the UTGCD. The ten (10) business days period shall not begin until the date the UTGCD has received each of the following: (1) a completed Certification Statement; (2) all information, data, and calculations performed or relied on in completing the Certification Statement; and (3) the GAC Review Fee. The UTGCD may request, and the plat applicant shall provide any missing or incomplete information requested. If the plat applicant fails to provide UTGCD with all required information, then UTGCD's report will indicate that the plat application and/or Certification Statement remains incomplete. The UTGCD's assessment as to whether the Certification Statement sufficiently complies with TCEQ's rules and sufficiently certifies that sufficient groundwater is available to serve the municipal tract subdivision in the manner proposed by the plat applicant is to be considered as a recommendation and is not binding on the City's approval of the plat.

Staff recommend approval of the Interlocal Agreement.

### **FINANCIAL CONSIDERATION:**

The City shall require a plat applicant seeking subdivision of a tract to be served by groundwater to submit a flat-fee payment of one thousand five hundred dollars (\$1,500.00) as the "GAC Review Fee," for UTGCD's cost of having its professional staff both review the Certification Statement and prepare a written report for the City. The GAC Review Fee must be received by the UTGCD before they undertake any work or review the Certification Statement. There is no direct cost to the City for this ILA, as the expense for the required Certification Statement will be paid by the plat applicant.

### **RECOMMENDED MOTIONS:**

I move to **Approve/Deny** an Interlocal Agreement with Upper Trinity Groundwater Conservation District to assist the City with the assessment of Certification Statements, for certain plats, to ensure they comply with the new state law.

### **ATTACHMENT(S):**

1. SB 2440
2. SB 2440 Bill Analysis
3. Interlocal Agreement
4. UTGCD Presentation



AN ACT

relating to a requirement that certain plats for the subdivision of land include evidence of groundwater supply.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.0101, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), ~~[If a person submits]~~ a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land must ~~[, the municipal authority responsible for approving plats by ordinance may require the plat application to]~~ have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(a-1) A municipal authority responsible for approving plats may waive the requirement prescribed by Subsection (a) that a plat application have attached to it a statement described by that subsection if:

(1) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the municipal authority determines that sufficient groundwater is

1 available and will continue to be available to the subdivided tract  
2 of land; and

3 (2) either:

4 (A) the entire tract proposed to be subdivided by  
5 the plat will be supplied with groundwater from the Gulf Coast  
6 Aquifer or the Carrizo-Wilcox Aquifer; or

7 (B) the proposed subdivision divides the tract  
8 into not more than 10 parts.

9 (a-2) A person subject to a waiver authorized by Subsection  
10 (a-1)(2)(B) regarding a subdivided tract of land must comply with  
11 the requirements of Subsection (a) if:

12 (1) the tract is subsequently divided in a manner that  
13 results in the original tract being subdivided into more than 10  
14 parts; or

15 (2) the municipal authority determines that the  
16 proposed subdivision is part of a series of proposed subdivisions  
17 from an original tract that collectively includes more than 10  
18 parts.

19 SECTION 2. Section [232.0032](#), Local Government Code, is  
20 amended by amending Subsection (a) and adding Subsections (a-1) and  
21 (a-2) to read as follows:

22 (a) Except as provided by Subsection (a-1), [~~If a person~~  
23 ~~submits~~] a plat application for the subdivision of a tract of land  
24 for which the source of the water supply intended for the  
25 subdivision is groundwater under that land must [~~, the commissioners~~  
26 ~~court of a county by order may require the plat application to~~] have  
27 attached to it a statement that:

1           (1) is prepared by an engineer licensed to practice in  
2 this state or a geoscientist licensed to practice in this state; and

3           (2) certifies that adequate groundwater is available  
4 for the subdivision.

5           (a-1) A commissioners court may waive the requirement  
6 prescribed by Subsection (a) that a plat application have attached  
7 to it a statement described by that subsection if:

8           (1) based on credible evidence of groundwater  
9 availability in the vicinity of the proposed subdivision, the  
10 commissioners court determines that sufficient groundwater is  
11 available and will continue to be available to the subdivided tract  
12 of land; and

13           (2) either:

14           (A) the entire tract proposed to be subdivided by  
15 the plat will be supplied with groundwater from the Gulf Coast  
16 Aquifer or the Carrizo-Wilcox Aquifer; or

17           (B) the proposed subdivision divides the tract  
18 into not more than 10 parts.

19           (a-2) A person subject to a waiver authorized by Subsection  
20 (a-1)(2)(B) regarding a subdivided tract of land must comply with  
21 the requirements of Subsection (a) if:

22           (1) the tract is subsequently divided in a manner that  
23 results in the original tract being subdivided into more than 10  
24 parts; or

25           (2) the commissioners court determines that the  
26 proposed subdivision is part of a series of proposed subdivisions  
27 from an original tract that collectively includes more than 10

1 parts.

2           SECTION 3. The changes in law made by this Act apply only to  
3 a plat application filed on or after the effective date of this Act.  
4 A plat application filed before the effective date of this Act is  
5 governed by the law in effect on the date the application was filed,  
6 and the former law is continued in effect for that purpose.

7           SECTION 4. This Act takes effect January 1, 2024.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 2440 passed the Senate on April 6, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2023, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 2440 passed the House, with amendments, on May 24, 2023, by the following vote: Yeas 120, Nays 18, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

## **BILL ANALYSIS**

Senate Research Center

S.B. 2440  
By: Perry  
Water, Agriculture & Rural Affairs  
6/9/2023  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There have been many instances around the state where new housing developments are being built and groundwater is stated as an available resource. There is no guarantee that groundwater is actually there and many people who are buying their retirement home or their first home are stuck without water.

This has also been happening in other states, where developers state there is available groundwater when there is not.

(Original Author's/Sponsor's Statement of Intent)

S.B. 2440 amends current law relating to a requirement that certain plats for the subdivision of land include evidence of groundwater supply.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 212.0101, Local Government Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires that a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, except as provided by Subsection (a-1), have attached to it a statement that meets certain criteria. Deletes existing text authorizing the municipal authority responsible for approving plats by ordinance, if a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, to require the plat application to have attached to it a statement that meets certain criteria.

(a-1) Authorizes a municipal authority responsible for approving plats to waive the requirement prescribed by Subsection (a) that a plat application have attached to it a statement described by that subsection if:

(1) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the municipal authority determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and

(2) either:

(A) the entire tract proposed to be subdivided by the plat will be supplied with groundwater from the Gulf Coast Aquifer or the Carrizo-Wilcox Aquifer; or

(B) the proposed subdivision divides the tract into not more than 10 parts.

(a-2) Requires a person subject to a waiver authorized by Subsection (a-1)(2)(B) regarding a subdivided tract of land to comply with the requirements of Subsection (a) if:

(1) the tract is subsequently divided in a manner that results in the original tract being subdivided into more than 10 parts; or

(2) the municipal authority determines that the proposed subdivision is part of a series of proposed subdivisions from an original tract that collectively includes more than 10 parts.

SECTION 2. Amends Section 232.0032, Local Government Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires that a plat application for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, except as provided by Subsection (a-1), have attached to it a statement that meets certain criteria. Deletes existing text authorizing the commissioners court of a county by order, if a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, to require the plat application to have attached to it a statement that meets certain criteria.

(a-1) Authorizes a commissioners court to waive the requirement prescribed by Subsection (a) that a plat application have attached to it a statement described by that subsection if:

(1) based on credible evidence of groundwater availability in the vicinity of the proposed subdivision, the commissioners court determines that sufficient groundwater is available and will continue to be available to the subdivided tract of land; and

(2) either:

(A) the entire tract proposed to be subdivided by the plat will be supplied with groundwater from the Gulf Coast Aquifer or the Carrizo-Wilcox Aquifer; or

(B) the proposed subdivision divides the tract into not more than 10 parts.

(a-2) Requires a person subject to a waiver authorized by Subsection (a-1)(2)(B) regarding a subdivided tract of land to comply with the requirements of Subsection (a) if:

(1) the tract is subsequently divided in a manner that results in the original tract being subdivided into more than 10 parts; or

(2) the commissioners court determines that the proposed subdivision is part of a series of proposed subdivisions from an original tract that collectively includes more than 10 parts.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2024.

## **INTERLOCAL AGREEMENT**

This Interlocal Agreement (“Agreement”) is made and entered into by and between the City of New Fairview, Texas (“Platting Authority”), and the Upper Trinity Groundwater Conservation District (“District”) (collectively “Parties” and individually “Party” depending upon the context).

### **RECITALS**

**WHEREAS**, Platting Authority is a body politic and corporate created and operating pursuant to Article XI, Section 1 of the Constitution of Texas, the Texas Local Government Code, and the applicable, general laws of the State of Texas;

**WHEREAS**, the District is a groundwater conservation district and a body politic and corporate, created by the 80th Texas Legislature under the authority of Section 59, Article XVI, of the Texas Constitution, and in accordance with Chapter 36 of the Texas Water Code by the Act of May 25, 2007, 80th Leg., R.S., ch. 1343, 2007 Tex. Gen. Laws 4583, codified at TEX. SPEC. DIST. LOC. LAWS CODE ANN. ch. 8830 (“the District Act”);

**WHEREAS**, the Parties, each being a political subdivision of the State of Texas, desire to enter this Agreement in accordance with the provisions of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code;

**WHEREAS**, the Parties agree that coordinating efforts and expertise in the evaluation of the availability of groundwater as the source of water intended to supply a platted subdivision is mutually advantageous and benefits the public;

**WHEREAS**, Chapter 212 of the Texas Local Government Code requires applicants to acquire a plat from the Platting Authority prior to subdividing certain tracts of land located within the limits or the extraterritorial jurisdiction of a municipality (“Municipal Tracts”);

**WHEREAS**, the Platting Authority, as authorized by Section 212.0101 of the Texas Local Government Code, requires applicants seeking to plat a Municipal Tract for which groundwater is intended to be the source of supply to provide a statement prepared by a geoscientist licensed to practice in Texas or an engineer licensed to practice in Texas certifying that adequate groundwater is available for the subdivision in accordance and in compliance with the rules of the Texas Commission on Environmental Quality (TCEQ) set forth in Title 30 of the Texas Administrative Code, Chapter 230 (the “Certification Statement”);

**WHEREAS**, the District, in accordance with Section 59 of Article XVI of the Texas Constitution, Chapter 36 of the Texas Water Code, and the District Act, adopts and implements rules to manage groundwater, protect property rights, and balance the conservation and development of groundwater to meet the needs of the citizens of New Fairview and the State of Texas;



**WHEREAS**, Sections 36.113 - 36.117 of the Texas Water Code authorize the District to approve or deny well registrations and permits for groundwater wells in accordance with the District's rules; and

**WHEREAS**, Chapter 212 of the Texas Local Government Code grants the Platting Authority the exclusive and final authority in consideration of plat applications seeking to subdivide a Municipal Tract;

**THEREFORE**, in consideration of the mutual promises, obligations, and benefits to be derived by the Parties pursuant to this Agreement, the Platting Authority, and the District each agree as follows:

## **ARTICLE I AUTHORIZATION AND PURPOSE**

### **1.1 Authority and Purpose.**

- a. This Agreement is entered into pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791; the Texas Water Code, Chapter 36; the Texas Local Government Code; and other applicable law.
- b. The purpose of this Agreement is to facilitate cooperation between the Platting Authority and the District in instances where a subdivided Municipal Tract is intended to rely on groundwater as the source of the water supply, and to ensure that, prior to receiving an approved plat from the Platting Authority, an applicant seeking to subdivide a Municipal Tract of land that relies on groundwater ("Plat Applicant") (1) certifies adequate groundwater availability and (2) demonstrates the ability to comply with the District's rules, including but not limited to minimum tract size, well spacing, and applicable well capacity and groundwater production limits. The District recognizes that its role is to offer its technical resources and input to the Platting Authority when evaluating Certification Statements and that the Platting Authority has exclusive jurisdiction and the sole discretion to take action regarding plat applications and the Certification Statements. Similarly, the Platting Authority recognizes that the District has exclusive jurisdiction and the sole discretion to take action regarding groundwater-related water well registration and permit applications.

## **ARTICLE II DUTIES OF THE PARTIES**

**2.1 Communication.** The Parties agree to timely and effectively communicate and coordinate in the execution and implementation of this Agreement, and to provide assistance to each other in the Platting Authority's consideration of plat applications, and in the District's processing and consideration of applications for water well registrations or permits, where groundwater is the proposed source of water to any properties under a proposed plat.

### **2.2 Platting Authority's Duties.**

- a. The Platting Authority has exercised its authority under Section 212.0101 of the Texas Local Government Code to require applicants seeking to plat a Municipal Tract for which groundwater is intended to be the source of supply to provide a Certification Statement that complies with TCEQ rules, certifying that adequate groundwater is available for the

subdivision. To assist both the Platting Authority and Plat Applicants in implementing this requirement, the Platting Authority shall require a Plat Applicant seeking to subdivide a Municipal Tract for which groundwater is intended to be the source of supply to provide a completed Certification Statement to the Platting Authority, the District, and the Texas Water Development Board, and shall direct the Plat Applicant to the District for guidance on the groundwater availability certification process prior to reviewing and processing the plat application. The Platting Authority shall also require a Plat Applicant to submit to the District with the completed Certification Statement all information, data, and calculations performed or relied on in completing the Certification Statement.

- b. The Platting Authority shall also require a Plat Applicant to submit a flat-fee payment of one thousand five hundred dollars (\$1,500.00) payable to the District, the “GAC Review Fee,” for the District’s cost in having its professional staff review the Certification Statement and prepare a written report under Section 2.3. The GAC Review Fee must be received by the District, from either the Plat Applicant or the Platting Authority, before the District is obligated to undertake any work or review described under Section 2.3.
- c. The Platting Authority shall not consider an application seeking to subdivide a Municipal Tract for which groundwater is intended to be the source of supply unless and until the Platting Authority has received from the District a final Certification Statement prepared by the Plat Applicant and any necessary accompanying documents along with the District’s report setting forth the District’s assessment as to whether the Certification Statement sufficiently complies with TCEQ’s rules and sufficiently certifies that sufficient groundwater is available to serve the Municipal Tract subdivision in the manner proposed by the Plat Applicant, and that the Plat Applicant has demonstrated that the groundwater well(s) it proposes to supply groundwater to the Municipal Tract will be able to comply with the District’s rules without the need for the Plat Applicant to obtain any exception to the minimum tract size or well spacing requirements of the District’s rules.
- d. If the Platting Authority places any restrictions or conditions regarding the drilling, depth, completion, equipping, or operation of water wells in the plat for a Municipal Tract, the Platting Authority shall timely submit such restrictions or conditions to the District in order that the District may be aware of such restrictions or conditions in considering any registration applications or permit applications for water wells on the Municipal Tract.

### **2.3 District’s Duties.**

- a. Upon receipt of notice from the Platting Authority regarding a proposed plat requiring a Certification Statement by the Platting Authority, the District agrees that the District’s General Manager and professional staff shall:
  1. Meet with the Plat Applicant to provide an overview of the timeline, process, and requirements for the District’s GAC Review;
  2. Consult with the Plat Applicant regarding each proposed plat as necessary to complete the District’s review of the Certification Statement;
  3. Make staff available, at the earliest convenience, to:
    - i. inspect any existing well(s), including inspection by downhole camera, on the tract of land that is subject of the proposed plat, to identify if they are adequate to be used as observation wells for the aquifer test portion of the

- study;
  - ii. provide information to the applicant in their decision making in the design of any new well drilled for the purpose of the aquifer test;
  - iii. utilize District resources to conduct a downhole geophysical log of any well on the property, including both new and existing well(s);
  - iv. inspect any equipment that is to be used to measure flow rate and water levels during the aquifer test to ensure those tools are properly calibrated; and
  - v. provide any other assistance or oversight during the aquifer test, as deemed appropriate by the District's General Manager.
- b. Upon receipt of the Certification Statement by the Platting Applicant, the District agrees that the District's General Manager and professional staff shall review the Certification Statement as follows:
- 1. assess whether that the information in the Certification Statement sufficiently complies with TCEQ's rules set forth in Title 30 of the Texas Administrative Code, Chapter 230, and sufficiently certifies that adequate groundwater is available for the subdivision;
  - 2. verify the Plat Applicant's anticipated method of water distribution, as provided in the Certification Statement, whether by the expansion of an existing public water supply system, a new public water supply system, individual water wells for individual subdivided lots, or a combination of such methods ("Distribution Method");
  - 3. determine whether the Projected Water Demand Estimates provided by the Plat Applicant in the Certification Statement are reasonable ("Demand Estimates");
  - 4. determine whether the Plat Applicant's proposed use of groundwater, Distribution Method, and Demand Estimates, to the extent the Distribution Method and Demand Estimates rely on groundwater, comply with the District's rules, including but not limited to requirements relating to minimum tract size and well spacing without the need for an exception, and, for a proposed well that requires a permit under the District's rules, authorized annual groundwater production;
  - 5. conduct additional analysis, which may include one or more simulated impact analysis to verify the results set forth by the applicant or to provide the Platting Authority an estimate of potential impacts under scenarios different than the one proposed by the applicant.
  - 6. prepare a written report, which may be sealed or unsealed by the District's professional staff, detailing the District General Manager and professional staff's review of the Certification Statement as set forth herein, including any deficiencies and any additional input deemed to be beneficial to the Platting Authority or the Plat Applicant.
- c. The District shall complete its review of the Certification Statement and deliver its report along with the final Certification Statement prepared by the Plat Applicant to the Platting Authority not later than ten (10) business days after the date the final Certification Statement and all required accompanying information and GAC Review Fee are received by the District from the Plat Applicant. The ten (10) business days period shall not begin until the date the District has received each of the following: (1) a completed Certification

Statement; (2) all information, data, and calculations performed or relied on in completing the Certification Statement; and (3) the GAC Review Fee. The District may request, and the Plat Applicant shall provide to the District any missing or incomplete information required by this Agreement. If the Plat Applicant fails to provide missing or incomplete information requested by the District, the District is not obligated to provide its report.

- d. The District General Manager and professional staff's assessment as to whether the Certification Statement sufficiently complies with TCEQ's rules and sufficiently certifies that sufficient groundwater is available to serve the Municipal Tract subdivision in the manner proposed by the Plat Applicant is to be considered as a recommendation and is not binding on the Platting Authority. The District General Manager and professional staff's determination regarding whether the project proposed by the Plat Applicant will comply with the District's rules as set forth herein are not binding on the District's Board of Directors for any permitting or other decision related to the project that goes before the District's Board of Directors.

### **ARTICLE III GENERAL PROVISIONS**

- 3.1 **Recitals.** The recitals herein stated are correct, agreed upon, and hereby incorporated by reference and made a part of this Agreement.
- 3.2 **Obligations of the Parties.** Parties agree to be bound by this Agreement, and to work in good faith toward achieving its purpose and the functions described herein.
- 3.3 **Amendment.** The Parties, and their respective designees, may propose an amendment to this Agreement. An amendment to this Agreement is adopted if the governing body of each Party adopts the amendment and furnishes the other Party with a copy of the minutes or resolution reflecting approval.
- 3.4 **Notices.** To be effective, any notice provided under this Agreement must be in writing, and shall be deemed to have been received for all purposes upon the earlier to occur of hand delivery or three (3) days after the same is mailed by U.S. Postal Service certified or registered mail, return receipt requested, and addressed as follows:

**If to the Platting Authority:**

Attn: City Administrator  
City of New Fairview  
999 Illinois  
New Fairview, Texas 76078  
John@newfairview.org

**If to the District:**

General Manager  
Upper Trinity Groundwater Conservation District  
PO Box 1749  
Springtown, TX 76082  
doug@uppertrinitygcd.com

Each Party agrees to provide a courtesy copy of any notice by email to the other Party. Each Party shall notify the other Party immediately if any of the contact information above changes. This notice provision shall not be construed to limit the ability of the Parties to allow for electronic submission or exchange of information that is not referred to herein as a “notice” between the District, the Platting Authority, and the Plat Applicant.

- 3.5 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be fully enforceable in the City of New Fairview.
- 3.6 Voluntary Removal.** At any time, a Party at its own discretion may deem it is in its own best interest to voluntarily terminate its participation in this Agreement. Such termination shall be effective thirty (30) days after the terminating Party delivers written notice of termination to the other Parties. The Parties shall have no additional liability to one another for termination under this section.
- 3.7 Prior Agreements Superseded.** This Agreement constitutes the entire Agreement of the Parties regarding the subject matter of this Agreement and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter.
- 3.8 Assignment.** No Party may assign its rights, privileges, and obligations under this Agreement in whole, or in part, without the prior written consent of the other Party. Any attempt to assign without such approval shall be void.
- 3.9 Construction.** In case any one or more of the provisions contained herein shall be held to be for any reason invalid, illegal, or unenforceable in any respect, the remaining provisions of the Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. This Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision, or by reason of the status of the respective Parties.
- 3.10 Legal Compliance.** Parties, their officials, employees, designees, and agents shall comply with all applicable federal, state, and local laws and ordinances related to the work and services performed under this Agreement.
- 3.11 Force Majeure.** No Party shall be responsible for delays or lack of performance by such entity or its officials, employees, designees, or agents that result from acts beyond that

Party's reasonable control, including acts of God, strikes or other labor disturbances, pandemics or epidemics, or delays by federal or state officials in issuing necessary regulatory approvals and/or licenses, except that the Parties shall take reasonably proactive measures to avoid delays that could be caused by the COVID-19 pandemic. In the event of any delay or failure excused by this Section, the time of delivery or of performance shall be extended for a reasonable time period to accommodate the delay.

**3.12 Multiple Counterparts.** This Agreement may be executed in separate identical counterparts by the Parties and each counterpart, when so executed and delivered, will constitute an original instrument, and all such separate identical counterparts will constitute but one and the same instrument.

**3.13 No Third-Party Beneficiary.** The terms and provisions of this Agreement are intended solely for the benefit of each Party hereto, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person or entity.

**IN WITNESS WHEREOF**, the Parties hereto, acting under the authority of their respective governing bodies, have executed this Agreement as either a single instrument or in multiple counterparts, each of which shall constitute an original, effective on the date signed by the second Party to sign (the Effective Date).

**AGREED UPON AND APPROVED BY:**

**CITY OF NEW FAIRVIEW, TEXAS**  
*acting by and through its City Council*

Attest:

\_\_\_\_\_  
John Taylor  
Mayor

\_\_\_\_\_  
Brooke Boller  
City Secretary

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT**  
*acting by and through its Board of Directors, which delegated signature authority to its General Manager*

\_\_\_\_\_  
Doug Shaw, General Manager

Date: \_\_\_\_\_

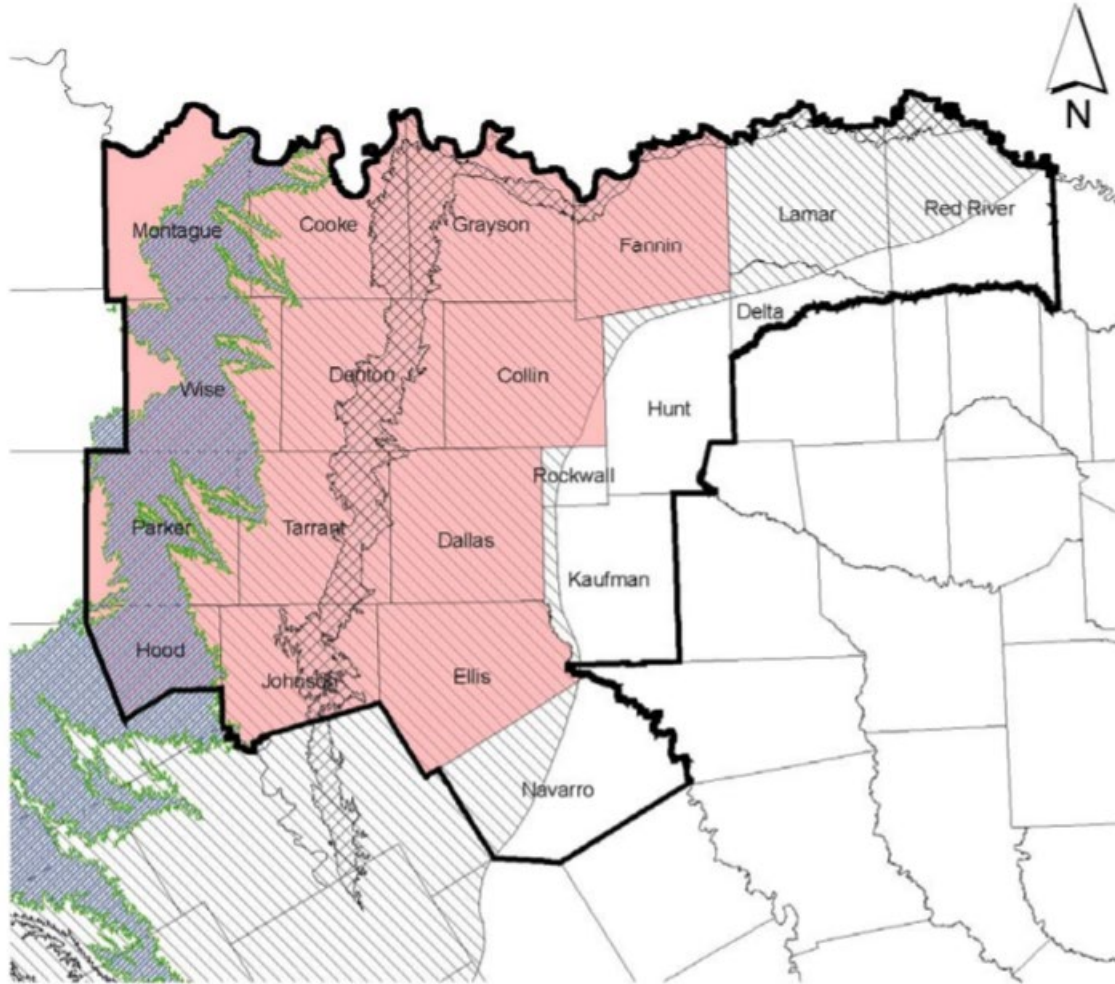


Doug Shaw  
General Manager



# Upper Trinity GCD

Hood, Parker, Wise and Montague Counties





An aerial photograph showing a winding river and a large reservoir in a dry, hilly landscape. The terrain is brownish-yellow, indicating arid conditions. The river flows from the top left towards the bottom right, where it meets a large, irregularly shaped reservoir. The surrounding hills are rugged and sparsely vegetated.

# Senate Bill 2440

- ▶ Municipalities and counties shall require a person filing a plat application to certify adequate groundwater availability for that subdivision.
- ▶ The bill allows.....a waiver.....if the municipality or county determines, **based on credible evidence, that there is sufficient groundwater available and will continue to be available and either:**
  - ▶ (1) the entire tract will be supplied with water from the Gulf Coast Aquifer or the Carrizo Wilcox aquifer, or
  - ▶ (2) the proposed subdivision will divide the tract into not more than 10 lots.

# Applicability (230.1)

- ▶ (a) Subdivisions utilizing groundwater as the source of water supply. In the plat application and approval process, municipal and county authorities may require certification that adequate groundwater is available for a proposed subdivision if groundwater under that land is to be the source of water supply. The municipal or county authority is not required to exercise their authority under Texas Local Government Code, §212.0101 or §232.0032. However, if they do exercise their authority, the form and content of this chapter must be used.
- ▶ (b) Use of this chapter. If required by the municipal or county authority, the plat applicant and the Texas licensed professional engineer or the Texas licensed professional geoscientist shall use this chapter and the attached form to certify that adequate groundwater is available under the land of a subdivision subject to platting under Texas Local Government Code, §212.004 and §232.001. These rules do not replace other state and federal requirements applicable to public drinking water supply systems. These rules do not replace the authority of counties within designated priority groundwater management areas under Texas Water Code, §35.019, or the authority of groundwater conservation districts under Texas Water Code, Chapter 36.
- ▶ (c) Transmittal of data. If use of this chapter is required by the municipal or county authority, the plat applicant shall:
  - ▶ (1) provide copies of the information, estimates, data, calculations, determinations, statements, and certification required by §230.8 of this title (relating to Obtaining Site-Specific Groundwater Data), §230.9 of this title (relating to Determination of Groundwater Quality), §230.10 of this title (relating to Determination of Groundwater Availability), and §230.11 of this title (relating to Groundwater Availability and Usability Statements and Certification) to the executive administrator of the Texas Water Development Board and to the applicable groundwater conservation district or districts; and
  - ▶ (2) using the attached form, attest that copies of the information, estimates, data, calculations, determinations, statements, and the certification have been provided to the executive administrator of the Texas Water Development Board and the applicable groundwater conservation district or districts. The executive director may make minor changes to this form that do not conflict with the requirements of these rules.

# Certification of Groundwater Availability for Platting (230.3)

- ▶ (a) Certification. The certification required by this chapter must be prepared by a Texas licensed professional engineer or a Texas licensed professional geoscientist.
- ▶ (b) Submission of information. The plat applicant shall provide to the municipal or county authority, the executive administrator of the Texas Water Development Board, and the applicable groundwater conservation district or districts the certification of adequacy of groundwater under the subdivision required by this chapter.
- ▶ (c) Form required. This chapter and the following form shall be used and completed if plat applicants are required by the municipal or county authority to certify that adequate groundwater is available under the land to be subdivided. The executive director may make minor changes to this form that do not conflict with the requirements of these rules.

Figure: 30 TAC §230.3(c)

**CERTIFICATION OF GROUNDWATER AVAILABILITY FOR PLATTING FORM**

Use of this form: If required by a municipal authority pursuant to Texas Local Government Code, §212.0101, or a county authority pursuant to §232.0032, Texas Local Government Code, the plat applicant and the Texas licensed professional engineer or Texas licensed professional geoscientist shall use this form based upon the requirements of Title 30, TAC, Chapter 230 to certify that adequate groundwater is available under the land to be subdivided (if the source of water for the subdivision is groundwater under the subdivision) for any subdivision subject to platting under Texas Local Government Code, §212.004 and §232.001. The form and Chapter 230 do not replace state requirements applicable to public drinking water supply systems or the authority of counties or groundwater conservation districts under either Texas Water Code, §35.019 or Chapter 36.

<b>Administrative Information (30 TAC §230.4)</b>		
1. Name of Proposed Subdivision:		
2. Any Previous Name Which Identifies the Tract of Land:		
3. Property Owner's Name(s):		
Address:		
Phone:		
Fax:		
4. Plat Applicant's Name:		
Address:		
Phone:		
Fax:		
5. Licensed Professional Engineer or Geoscientist:		
Name:		
Address:		
Phone:		
Fax:		
Certificate Number:		
6. Location and Property Description of Proposed Subdivision:		
7. Tax Assessor Parcel Number(s):		
Book:		
Map:		
Parcel:		
<b>Proposed Subdivision Information (30 TAC §230.5)</b>		
8. Purpose of Proposed Subdivision (single family/multi-family residential, non-residential, commercial):		
9. Size of Proposed Subdivision (acres):		
10. Number of Proposed Lots:		
11. Average Size of Proposed Lots (acres):		
12. Anticipated Method of Water Distribution.		
Expansion of Existing Public Water Supply System?	Yes	No
New (Proposed) Public Water Supply System?	Yes	No
Individual Water Wells to Serve Individual Lots?	Yes	No
Combination of Methods?	Yes	No

# Administrative Information (230.4)

- ▶ At a minimum, the following general administrative information as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting), shall be provided for a proposed subdivision for which groundwater under the land will be the source of water supply:
  - ▶ (1) the name of the proposed subdivision;
  - ▶ (2) any previous or other name(s) which identifies the tract of land;
  - ▶ (3) the name, address, phone number, and facsimile number of the property owner or owners;
  - ▶ (4) the name, address, phone number, and facsimile number of the person submitting the plat application;
  - ▶ (5) the name, address, phone number, facsimile number, and registration number of the licensed professional engineer or the licensed professional geoscientist preparing the certification as required in this chapter;
  - ▶ (6) the location and property description of the proposed subdivision; and
  - ▶ (7) the tax assessor parcel number(s) by book, map, and parcel.

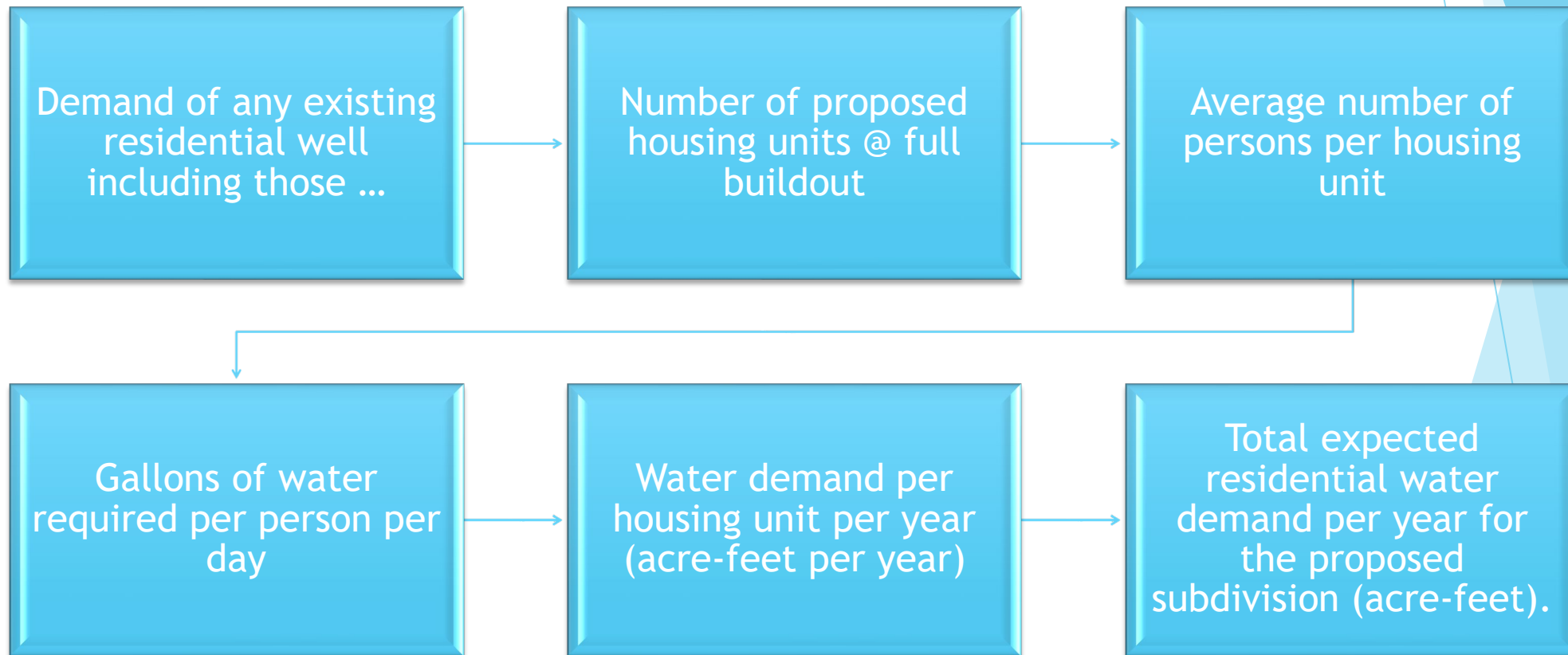
# Proposed Subdivision Information (230.5)

- ▶ At a minimum, the following information pertaining to the proposed subdivision shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting):
  - ▶ (1) the purpose of the proposed subdivision, for example, single family residential, multi-family residential, non-residential, commercial, or industrial;
  - ▶ (2) the size of the proposed subdivision in acres;
  - ▶ (3) the number of proposed lots within the proposed subdivision;
  - ▶ (4) the average size (in acres) of the proposed lots in the proposed subdivision;
  - ▶ (5) the anticipated method of water distribution to the proposed lots in the proposed subdivision including, but not limited to:
    - ▶ (A) an expansion of an existing public water supply system to serve the proposed subdivision (if groundwater under the subdivision is to be the source of water supply);
    - ▶ (B) a new public water supply system for the proposed subdivision;
    - ▶ (C) individual water wells to serve individual lots; or
    - ▶ (D) a combination of methods;
  - ▶ (6) if the anticipated method of water distribution for the proposed subdivision is from an expansion of an existing public water supply system or from a proposed public water supply system, evidence required under §290.39(c)(1) of this title (relating to Rules and Regulations for Public Water Systems) which shall be provided demonstrating that written application for service was made to the existing water providers within a 1/2-mile radius of the subdivision; and
  - ▶ (7) any additional information required by the municipal or county authority as part of the plat application.

# Projected Water Demand Estimate (230.6)

- ▶ (a) Residential water demand estimate. Residential water demand estimates at full build out shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting). Residential demand estimates shall, at a minimum, be based on the current demand of any existing residential well including those identified under §230.8(b) of this title (relating to Obtaining Site-Specific Groundwater Data), or §290.41(c) of this title (relating to Rules and Regulations for Public Water Systems), and:
  - ▶ (1) the number of proposed housing units at full build out;
  - ▶ (2) the average number of persons per housing unit;
  - ▶ (3) the gallons of water required per person per day;
  - ▶ (4) the water demand per housing unit per year (acre feet per year); and
  - ▶ (5) the total expected residential water demand per year for the proposed subdivision (acre feet per year).
- ▶ (b) Non-residential water demand estimate. Water demand estimates at full build out shall be provided for all non-residential uses as specified in §230.3(c) of this title. Non-residential uses shall be specified by type of use and groundwater demand per year (acre feet per year) for each type of use. The estimate shall also include the existing non-residential demand of any well including those identified under §230.8(b) of this title or §290.41(c) of this title.
- ▶ (c) Total annual water demand estimate. An estimate of the total expected annual groundwater demand, including residential and non-residential estimates at full build out (acre feet per year), shall be provided as specified in §230.3(c) of this title.
- ▶ (d) Submission of information. The sources of information used and calculations performed to determine the groundwater demand estimates as required by this section shall be made available to the municipal or county authority if requested. The plat applicant shall provide any additional groundwater demand information required by the municipal or county authority as part of the plat application.

# Residential Demand Estimates (230.6)





# General Groundwater Resource Information (230.7)

- ▶ (a) Aquifer identification. Using Texas Water Development Board aquifer names, the aquifer(s) underlying the proposed subdivision which is planned to be used as the source of water for the subdivision shall be identified and generally described as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting).
- ▶ (b) Geologic and groundwater information. To meet the requirements of this chapter, the following geologic and groundwater information shall be considered in planning and designing the aquifer test under §230.8(c) of this title (relating to Obtaining Site-Specific Groundwater Data):
  - ▶ (1) the **stratigraphy** of the geologic formations underlying the subdivision;
  - ▶ (2) the **lithology** of the geologic strata;
  - ▶ (3) the geologic **structure**;
  - ▶ (4) the **characteristics of the aquifer(s) and their hydraulic relationships**;
  - ▶ (5) the **recharge to the aquifer(s)**, and movement and discharge of groundwater from the aquifer(s);  
and
  - ▶ (6) the **ambient quality of water** in the aquifer(s).

# Obtaining Site-Specific Groundwater Data 230.8)

- ▶ (a) Applicability of section. This section is applicable only if the proposed method of water distribution for the proposed subdivision is individual water wells on individual lots. If expansion of an existing public water supply system or installation of a new public water supply system is the proposed method of water distribution for the proposed subdivision, site-specific groundwater data shall be developed under the requirements of Chapter 290, Subchapter D of this title (relating to Rules and Regulations for Public Water Systems) and the information developed in meeting these requirements shall be attached to the form required under §230.3 of this title (relating to Certification of Groundwater Availability for Platting).
- ▶ (b) Location of existing wells. All known existing, abandoned, and inoperative wells within the proposed subdivision shall be identified, located, and mapped by on-site surveys. Existing well locations shall be illustrated on the plat required by the municipal or county authority.
- ▶ (c) Aquifer testing. Utilizing the information considered under §230.7(b) of this title (relating to General Groundwater Resource Information), an aquifer test shall be conducted to characterize the aquifer(s) underlying the proposed subdivision. The aquifer test must provide sufficient information to allow evaluation of each aquifer that is being considered as a source of residential and non-residential water supply for the proposed subdivision. Appropriate aquifer testing shall be based on typical well completions. An aquifer test conducted under this section utilizing established methods shall be reported as specified in §230.3(c) of this title and shall include, but not be limited to, the following items.
  - ▶ (1) Test well and observation well(s). At a minimum, one test well (i.e., pumping well) and one observation well, shall be required to conduct an adequate aquifer test under this section. Additional observation wells shall be used for the aquifer test if it is practical or necessary to confirm the results of the test. The observation well(s) shall be completed in the same aquifer or aquifer production zone as the test well. The locations of the test and observation well(s) shall be shown on the plat required by the municipal or county authority.
  - ▶ (2) Location of wells. The test and observation well(s) must be placed within the proposed subdivision and shall be located by latitude and longitude. The observation well(s) shall be located at a radial distance such that the time-drawdown data collected during the planned pumping period fall on a type curve of unique curvature. In general, observation wells in unconfined aquifers should be placed no farther than 300 feet from the test well, and no farther than 700 feet in thick, confined aquifers. The observation well should also be placed no closer to the test well than two times the thickness of the aquifer's production zone. The optimal location for the observation well(s) can be determined by best professional judgement after completion and evaluation of the test well as provided in paragraph (4) of this subsection.

# Observation Well Spacing (230.8)

Observation Well Location	Confined Aquifer System	Unconfined Aquifer System
Maximum distance	$D \leq 700 \text{ ft.}$	$D \leq 300 \text{ ft.}$
Minimum distance	$\geq 2(b)$ <i>b = formation thickness</i>	$\geq 2(b)$ <i>b = formation thickness</i>

# Obtaining Site-Specific Groundwater Data (230.8)

- ▶ (3) Lithologic and geophysical logs. The test and observation wells shall be lithologically and geophysically logged to map and characterize the geologic formation(s) and the aquifer(s) in which the aquifer test(s) is to be performed.
  - ▶ (A) A lithologic log shall be prepared showing the depth of the strata, their thickness and lithology (including size, range, and shape of constituent particles as well as smoothness), occurrence of water bearing strata, and any other special notes that are relevant to the drilling process and to the understanding of subsurface conditions.
  - ▶ (B) Geophysical logs shall be prepared which provide qualitative information on aquifer characteristics and groundwater quality. At a minimum, the geophysical logs shall include an electrical log with shallow and deep-investigative curves (e.g., 16-inch short normal/64-inch long normal resistivity curves or induction log) with a spontaneous potential curve.
  - ▶ (C) The municipal or county authority may, on a case-by-case basis, waive the requirement of geophysical logs as required under this section if it can be adequately demonstrated that the logs are not necessary to characterize the aquifer(s) for testing purposes.
- ▶ (4) Well development and performance. The test and observation well(s) shall be developed prior to conducting the aquifer test to repair damage done to the aquifer(s) during the drilling operation. Development shall insure that the hydraulic properties of the aquifer(s) are restored as much as practical to their natural state.
  - ▶ (A) Well development procedures applied to the well(s) may vary depending on the drilling method used and the extent of the damage done to the aquifer(s).
  - ▶ (B) During well development, the test well shall be pumped for several hours to determine the specific capacity of the well, the maximum anticipated drawdown, the volume of water produced at certain pump speeds and drawdown, and to determine if the observation well(s) are suitably located to provide useful data.
  - ▶ (C) Water pumped out of the well during well development shall not be allowed to influence initial well performance results.
  - ▶ (D) Aquifer testing required by this section shall be performed before any acidization or other flow-capacity enhancement procedures are applied to the test well.
- ▶ (5) Protection of groundwater. All reasonably necessary precautions shall be taken during construction of test and observation wells to ensure that surface contaminants do not reach the subsurface environment and that undesirable groundwater (water that is injurious to human health and the environment or water that can cause pollution to land or other waters) if encountered, is sealed off and confined to the zone(s) of origin.

# Obtaining Site-Specific Groundwater Data (230.8)

- ▶ (6) Duration of aquifer test and recovery. The duration of the aquifer test depends entirely on local and geologic conditions. However, the test shall be of sufficient duration to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. Water pumped during the test shall not be allowed to influence the test results. Aquifer testing shall not commence until water levels (after well development) have completely recovered to their pre-development level or at least to 90% of that level.
- ▶ (A) At a minimum, a 24-hour uniform rate aquifer test shall be conducted. Testing shall continue long enough to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. If necessary, the duration of the test should be extended beyond the 24-hour minimum limit until the straight-line trend is observed.
- ▶ (i) If it is impractical to continue the test until a straight-line trend of water level versus the logarithm of time pumped is observed within the 24-hour limit, the test shall continue at least until a consistent pumping-level trend is observed. In such instances, failure to observe the straight-line trend shall be recorded.
- ▶ (ii) If the pumping rates remain constant for a period of at least four hours and a straight-line trend is observed on a plot of water level versus the logarithm of time pumped before the 24-hour limit has been reached, the pumping portion of the test may be terminated.
- ▶ (iii) The frequency of water level measurements during the aquifer test shall be such that adequate definition of the time-drawdown curve is made available. As much information as possible shall be obtained in the first ten minutes of testing (i.e., pumping).
- ▶ (B) Water-level recovery data shall be obtained to verify the accuracy of the data obtained during the pumping portion of the test. Recovery measurements shall be initiated immediately at the conclusion of the pumping portion of the aquifer test and shall be recorded with the same frequency as those taken during the pumping portion of the aquifer test. Time-recovery measurements shall continue until the water levels have recovered to pre-pumping levels or at least to 90% of that level. If such recovery is not possible, time-recovery measurements should continue until a consistent trend of recovery is observed.

# Obtaining Site-Specific Groundwater Data

- ▶ (7) Use of existing wells and aquifer test data.
- ▶ (A) An existing well may be utilized as an observation well under this section if sufficient information is available for that well to demonstrate that it meets the requirements of this section.
- ▶ (B) The municipal or county authority may accept the results of a previous aquifer test in lieu of a new test if:
  - ▶ (i) the previous test was performed on a well located within a 1/4-mile radius of the subdivision;
  - ▶ (ii) the previous test fully meets all the requirements of this section;
  - ▶ (iii) the previous test was conducted on an aquifer which is being considered as a source of water supply for the proposed subdivision; and
  - ▶ (iv) aquifer conditions (e.g., water levels, gradients, etc.) during the previous test were approximately the same as they are presently.
- ▶ (8) Need for additional aquifer testing and observation wells. Best professional judgement shall be used to determine if additional observation wells or aquifer tests are needed to adequately demonstrate groundwater availability. The Theis and Cooper-Jacob nonequilibrium equations, and acceptable modifications thereof, are based on well documented assumptions. To determine if additional information is needed, best professional judgement shall be used to consider these assumptions, the site-specific information derived from the aquifer test required by this section, the size of the proposed subdivision, and the proposed method of water delivery.
- ▶ (d) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if requested, to document the requirements of this section as part of the plat application.

# Determination of Groundwater Quality

- ▶ (2) For proposed subdivisions where the anticipated method of water delivery is from individual water supply wells on individual lots, samples shall be analyzed for the following:
  - ▶ Chlorides
  - ▶ *Conductivity*
  - ▶ Flourides
  - ▶ Nitrate (Nitrogen)
  - ▶ Manganese
  - ▶ *pH*
  - ▶ Sulfates
  - ▶ Total Hardness
  - ▶ Total Dissolved Solids (TDS)
  - ▶ Presence/Absence of Total Coliform Bacteria
- ▶ (3) **Conductivity and pH values may be measured in the field, and the other constituents shall be analyzed in a laboratory** accredited by the agency according to Chapter 25, Subchapters A and B of this title (relating to General Provisions and Environmental Testing Laboratory Accreditation, respectively) or certified by the agency according to Chapter 25, Subchapters A and C of this title (relating to General Provisions and Environmental Testing Laboratory Certification, respectively).
- ▶ (b) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if requested, to document the requirements of this section as part of the plat application.

# Determination of Groundwater Availability

- ▶ (a) Time frame for determination of groundwater availability. At a minimum, both a short- and long-term determination of groundwater availability shall be made, each considering the estimated total water demand at full build out of the proposed subdivision. Groundwater availability shall be determined for ten years and 30 years and for any other time frame(s) required by the municipal or county authority.
- ▶ (b) Other considerations in groundwater availability determination. Groundwater availability determinations shall take into account the anticipated method of water delivery as identified under §230.5 of this title (relating to Proposed Subdivision Information) and will be compared to annual demand estimates at full build out as determined under §230.6 of this title (relating to Projected Water Demand Estimate).
- ▶ (c) Determination of aquifer parameters. The parameters of the aquifer(s) being considered to supply water to the proposed subdivision shall be determined utilizing the information considered under §230.7 of this title (relating to General Groundwater Resource Information) and data obtained during the aquifer test required under §230.8 of this title (relating to Obtaining Site-Specific Groundwater Data) for individual water wells or under Chapter 290, Subchapter D of this title (relating to Rules and Regulations for Public Water Systems) and reported as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting). The time-drawdown and time-recovery data obtained during the aquifer test shall be used to determine aquifer parameters utilizing the nonequilibrium equations developed by Theis or Cooper-Jacob, or acceptable modifications thereof. The following aquifer parameters shall be determined:



# Determination of Groundwater Availability

- ▶ (1) rate of yield and drawdown;
- ▶ (2) specific capacity;
- ▶ (3) efficiency of the pumped (test) well;
- ▶ (4) transmissivity;
- ▶ (5) coefficient of storage;
- ▶ (6) hydraulic conductivity;
- ▶ (7) recharge or barrier boundaries, if any are present; and
- ▶ (8) thickness of the aquifer(s).
- ▶ (d) Determination of groundwater availability. Using the information and data identified and determined in subsections (b) and (c) of this section, the following calculations shall be made.
  - ▶ (1) **Time-drawdown.** The amount of drawdown at the pumped well(s) and at the boundaries of the proposed subdivision shall be determined for the time frames identified under subsection (a) of this section.
  - ▶ (2) **Distance-drawdown.** The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames identified under subsection (a) of this section.
  - ▶ (3) Well interference. For multiple wells in a proposed subdivision, calculations shall be made to:
    - ▶ (A) determine how pumpage from multiple wells will affect drawdown in individual wells for the time frames identified under subsection (a) of this section; and
    - ▶ (B) determine a recommended minimum spacing limit between individual wells and well yields from the wells that will allow for the continued use of the wells for the time frames identified under subsection (a) of this section.
- ▶ (e) Determination of groundwater quality. The water quality analysis required under §230.9 of this title (relating to Determination of Groundwater Quality) shall be compared to primary and secondary public drinking water standards and the findings documented as specified in §230.3(c) of this title.
- ▶ (f) Submission of information. The information, data, and calculations required by this section shall be made available to the municipal or county authority, if required, to document the requirements of this section as part of the plat application.

# Groundwater Availability and Usability Statements and Certification

- ▶ (a) Groundwater availability and usability statements. Based on the information developed under §230.10 of this title (relating to Determination of Groundwater Availability), the following information shall be provided as specified in §230.3(c) of this title (relating to Certification of Groundwater Availability for Platting):
  - ▶ (1) the estimated drawdown of the aquifer at the pumped well(s) over a ten-year period and over a 30-year period;
  - ▶ (2) the estimated drawdown of the aquifer at the subdivision boundary over a ten-year period and over a 30-year period;
  - ▶ (3) the estimated distance from the pumped well(s) to the outer edges of the cone(s)-of-depression over a ten-year period and over a 30-year period;
  - ▶ (4) the recommended minimum spacing limit between wells and the recommended well yield; and
  - ▶ (5) the sufficiency of available groundwater quality to meet the intended use of the platted subdivision.
- ▶ (b) Groundwater availability determination conditions. The assumptions and uncertainties that are inherent in the determination of groundwater availability should be clearly identified as specified in §230.3(c) of this title. These conditions must be identified to adequately define the bases for the availability and usability statements. These bases may include, but are not limited to, uncontrollable and unknown factors such as:
  - ▶ (1) future pumpage from the aquifer or from interconnected aquifers from area wells outside of the subdivision or any other factor that cannot be predicted that will affect the storage of water in the aquifer;
  - ▶ (2) long-term impacts to the aquifer based on climatic variations; and
  - ▶ (3) future impacts to usable groundwater due to unforeseen or unpredictable contamination.
- ▶ (c) Certification. Based on best professional judgement, current groundwater conditions, and the information developed and presented in the form specified by §230.3(c) of this title, the licensed professional engineer or licensed professional geoscientist certifies by signature, seal, and date that adequate groundwater is available from the underlying aquifer(s) to supply the estimated demand of the proposed subdivision.

# Interlocal Agreements

- ▶ Authorization & Purpose
- ▶ Duties of the Parties
  - ▶ Platting Authority Duties
  - ▶ Duties of the District
- ▶ General Provisions
  - ▶ Governing Law
  - ▶ Voluntary Removal
  - ▶ Prior Agreements Superseded

## INTERLOCAL AGREEMENT

This Interlocal Agreement (“Agreement”) is made and entered into by and between Ellis County, Texas (“Platting Authority”), and the Prairielands Groundwater Conservation District (“District”) (collectively “Parties” and individually “Party” depending upon the context).

### RECITALS

**WHEREAS**, Platting Authority is a body politic and corporate created and operating pursuant to Article IX, Section 1 of the Constitution of Texas; the Texas Local Government Code; and the applicable, general laws of the State of Texas;

**WHEREAS**, the District is a groundwater conservation district and a body politic and corporate, created by the 81<sup>st</sup> Texas Legislature under the authority of Article XVI, Section 59 of the Texas Constitution, and in accordance with Chapter 36 of the Texas Water Code, and codified as Chapter 8855 of the Texas Special District Local Laws Code (the “District Act”);

**WHEREAS**, the Parties, each being a political subdivision of the State of Texas, desire to enter this Agreement in accordance with the provisions of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code;

**WHEREAS**, the Parties agree that coordinating efforts and expertise in the evaluation of the availability of groundwater as the source of water intended to supply a platted subdivision is mutually advantageous and benefits the public;

**WHEREAS**, Chapter 232 of the Texas Local Government Code requires applicants to acquire a plat from the Platting Authority prior to subdividing certain tracts of land located outside the limits of a municipality (“Rural Tracts”);

**WHEREAS**, the Platting Authority, as authorized by Section 232.0032 of the Texas Local Government Code, requires applicants seeking to plat a Rural Tract for which groundwater is intended to be the source of supply to provide a statement prepared by a geoscientist licensed to practice in Texas or an engineer licensed to practice in Texas certifying that adequate groundwater is available for the subdivision in accordance and in compliance with the rules of the Texas Commission on Environmental Quality (TCEQ) set forth in Title 30 of the Texas Administrative Code, Chapter 230 (the “Certification Statement”);

**WHEREAS**, the District, in accordance with Section 59 of Article XVI of the Texas Constitution, Chapter 36 of the Texas Water Code, and the District Act, adopts and implements rules to manage groundwater, protect property rights, and balance the conservation and development of groundwater to meet the needs of the citizens of Ellis County and the State of Texas;



# District Staff

- ▶ Doug Shaw - General Manager
  - ▶ Final Review
- ▶ Jill Garcia P.G. - Assistant GM (Research & Science)
  - ▶ Project Manager, Lead author,
- ▶ Kyle Russell P.G. - Assistant GM (Registrations & Permitting)
  - ▶ Applicant Contact/review
- ▶ Blaine Hicks P.G. - Staff Geologist
  - ▶ Field data collection, modeling, review
- ▶ Jacob Dove P.G. - GIS Analyst
  - ▶ Field Collection, mapping, review
- ▶ Jay Love G.I.T. - Compliance Coordinator
  - ▶ Data collection/entry, mapping, modeling



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## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

January 8, 2024

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### Community Development Block Grant Project Public Hearing

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#### **DESCRIPTION:**

Hold a public hearing for the completion of the TxCDBG 2021-22 project.

#### **BACKGROUND INFORMATION:**

In January 2021, the council passed a resolution (R202101-03-141) appointing Traylor & Associates Inc. as the community development fund administrator for the City to participate in the Texas Department of Agriculture, Community Development Block Grant (TxCDBG) Program for 2021-22. The City was awarded a TxCDBG 2021-22 project grant (CDV21-0100) for \$350,000, with a local match of \$83,784, for the reconstruction of Layfield Lane and Creasser Lane. However, Layfield Lane was included in the street reconstruction project awarded to Jagoe-Public, so it was replaced with Wilson Court.

A Request for Qualifications was published, and the City selected Freeman-Millican, Inc. as the engineer for this project. Both Creasser Lane and Wilson Court had already been surveyed and engineer-designed by the City's engineering firm, Pacheco Koch. However, a portion of Wilson was not surveyed and designed so Freeman-Millican performed that survey for the City and will turn the data over to Pacheco Koch for design.

On September 6, 2022, the City Council competitively awarded a contract to JR West Texas Construction in the amount of \$426,991.50, for drainage improvements to Wilson Court and Creasser Lane as part of the TxCDBG. That drainage improvement project began on January 30, 2023, and came in under budget (\$399,066.50) and on time.

In January 2023, the Council approved a Interlocal Agreement (ILA) with Wise County that included the grinding of the old asphalt, applying base material, and laying asphalt to Wilson Court, Creasser Lane, a portion of Stewart Street, and the parking lot of the new city park. Staff worked with the County on determining the amount of road materials needed and associated costs. Staff also prepared estimated costs for the guardrails and street signs that will be needed for this project, but that will not be done by Wise County.

On March 20, 2023, the Council authorized the use of the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) from the American Rescue Plan Act (ARPA), which was received on September 26, 2022, to cover the costs for the road reconstruction. This project was completed on time and under budget.

It should be noted that the Creasser Lane project site benefited a total of 27 beneficiaries, of which 16, or 59.26%, are of low to moderate income. In turn, the Wilson Court project site benefited a total of 65 beneficiaries of which 38, or 58.46%, are of low to moderate income.

All the work has been completed for this TxCDBG 2021-22 project (CDV21-0100). A public hearing is therefore required by the Texas Department of Agriculture to receive any input on the performance of this grant project before closing out the TxCDBG CDV21-0100 grant-funded contract. The Financial Consideration section below contains a breakdown of the costs associated with this project.

**FINANCIAL CONSIDERATION:**

The TxCDBG 2021-22 project (CDV21-0100) award was \$350,000, and the City’s match was \$83,784.

Road Materials (road base, asphalt, tack, etc.)	\$100,449.50
Drainage works	\$399,066.50
Engineering Services	\$ 22,980.87
Grant Management (Traylor & Asso)	<u>\$ 40,000.00</u>
<b>TOTAL</b>	<b>\$562,496.87</b>

**RECOMMENDED MOTIONS:**

None.

**ATTACHMENT(S):**

1. TxCDBG Project Costs

**TxCDBG 2021-22 (CDV21-0100) Project Costs**

Material Type	Tons/Gallons	Cubic Yards	Thickness	Street(s)	Price per ton/gallon	Length	Width	Estimated Total	Actual Total
Road Base	1124 tons		8 Inches	Creaser Ln	\$9 per ton	1089ft	22ft	\$10,116	\$8,818.78
Road Base	2357.3 tons		8 Inches	Wilson Ct	\$9 per ton	2284ft	22ft	\$21,213	\$9,189.08
Asphalt	361.87 tons	184.861	2.5 Inches	Creaser Ln	\$73 per ton	1089ft	22ft	\$26,416.19	\$26,948.58
Asphalt	758.95 tons	387.716	2.5 Inches	Wilson Ct	\$73 per ton	2284ft	22ft	\$55,403.65	\$50,211.59
Tack (Prime Oil)	505 gal		.19 Application Rate	Creaser Ln	\$4.50 per gallon	1089ft	22ft	\$2,272.50	\$2,793.43
Tack (Prime Oil)	1061.00 gal		.19 Application Rate	Wilson Ct	\$4.50 per gallon	2284ft	22ft	\$4,774.50	\$2,488.04
<b>Total For Materials</b>								\$120,195.84	\$100,449.50
<b>Delivery Fee For Oil</b>								\$3,000.00	\$0.00
Material		Lnft of Material			Cost Per Foot				
Guard Rail		775			\$70			\$54,250.00	\$48,350.00
Street(S)	Pole Quantity/Cost	Stop Sign	Regulatory Sign	Park Sign	Street Sign			Total	
Creaser Ln	4 x 100 = 400	2 x 65 = 130	2 x 45 = 90		2 x 90 = 180			\$800.00	\$1,046.00
Wilson Ct	7 x 100 = 700		7 x 45 = 315					\$1,015.00	\$1,242.31
<b>Total For Above</b>								\$1,815.00	\$2,288.31
<b>Project Grand Total</b>								\$179,260.84	\$151,087.81





## CITY COUNCIL AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

January 8, 2024

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### Planning and Zoning Commission Appointment

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#### **DESCRIPTION:**

Receive, consider and act on appointing members to the Planning and Zoning Commission.

#### **BACKGROUND INFORMATION:**

Chapter 9, Article 9.04 of the City Code of Ordinances addresses the composition of the Planning and Zoning Commission.

#### **ARTICLE 9.04 PLANNING AND ZONING COMMISSION**

##### **Sec. 9.04.001 Creation and composition**

There is hereby created and established within the city, a city planning and zoning committee, which shall be subject to the jurisdiction of the city council. The planning and zoning committee shall be composed of five (5) members, three (3) of whom shall constitute a quorum for the transaction of business. The members shall be resident citizens and qualified voters of the city. Members shall be appointed by the city council for a term of office of two (2) years, provided however, that two (2) members shall be initially appointed for a term of one (1) year, with those terms being for two (2) years thereafter. All vacancies on the planning and zoning committee shall be filled by appointment by the city council for the unexpired term of the vacated member.

(Ordinance 2004-01-096, sec. 1, adopted 1/11/04; Ordinance 202103-03-222 adopted 3/1/21)

The Planning and Zoning Commission Places 4 and 5 are currently vacant. Commissioner Denis Sansoucie recently resigned because he moved out of the city. The City has received an application from Don Duval, and staff has confirmed he is a resident and qualified voter of the city.

**Current Board Members**

Julie Burger  
Lisa Dawn Cabrera  
Rebecca McPherson

**Vacant**

**Vacant**

**Place**

Place 1

Place 2

Place 3

**Place 4**

**Place 5**

**Term**

(Oct. 2025)

(Oct. 2024)

(Oct. 2025)

**(Oct. 2024)**

**(Oct. 2025)**

**FINANCIAL CONSIDERATION:**

None

**RECOMMENDED MOTIONS:**

I move to **Approve/Deny** the appointment of Don Duval to the Planning and Zoning Commission, Place \_\_\_\_\_.

**ATTACHMENT(S):**

1. Application