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NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHORHOOD PLAN: Govalle/Johnston Terrace Combined Neighborhood Plan

CASE#: NPA-2011-0016.01 **Date Filed:** July 27, 2011 (in-cycle)

PC DATE: October 25, 2011
October 11, 2011

ADDRESS/ES: 5702 ½ Jain Lane

SITE AREA: Approx. 36 acres

APPLICANT: City of Austin, Parks and Recreation Department

OWNER: City of Austin, Parks and Recreation Department

AGENT: Greg Montes, City of Austin, Parks and Recreation Department

TYPE OF AMENDMENT:

Change in Future Land Use Designation

From: Civic and Single Family

To: Recreation/Open Space

Base District Zoning Change

Related Zoning Case: C14-2011-0082 (SR)

From: SF-3-NP

To: P-NP

NEIGHBORHOOD PLAN ADOPTION DATE: March 27, 2003

PLANNING COMMISSION RECOMMENDATION: Pending.

STAFF RECOMMENDATION: Recommended

BASIS FOR STAFF'S RECOMMENDATION: The plan amendment request meets the following plan goals and recommendations:

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Parks, Recreation, and Public Facilities Goals

- Goal 15:** **Protect and enhance existing parks, recreational facilities, and open spaces. (Sector Plan)**
- Goal 16:** **Ensure that parks are safe places that are welcoming to families. (Gov/JT)**
- Goal 17:** **Provide opportunities for cultural arts, recreation and leisure activities/services for all ages. (Gov/JT)**
- Goals 18:** **Design public facilities and open spaces that serve as community gathering places. (Gov/JT)**

Environmental Goals

- Goal 19:** **Improve the environmental quality of the neighborhood. (Gov/JT)**

Future Use of Vacant or Under-Utilized Properties

In the Govalle/Johnston Terrace area there is some room for future development and reuse of properties that are currently vacant or under-utilized.

Many of the vacant or underutilized properties are publicly owned. The neighborhood has expressed interest in the use of publicly owned land within the Govalle/Johnston Terrace Neighborhood Planning Area. Generally speaking the neighborhood supports the preservation of open space in the neighborhood. The neighborhood supports limitations on further development on these properties and the preservation of as much open space as possible. The neighborhood also supports larger vacant properties being linked as part of a pedestrian and bicycle network that allows safe, non-automobile travel between these areas and also allows residents from other areas (such as east of US 183) to access parks, trails and other places within Govalle/Johnston Terrace.

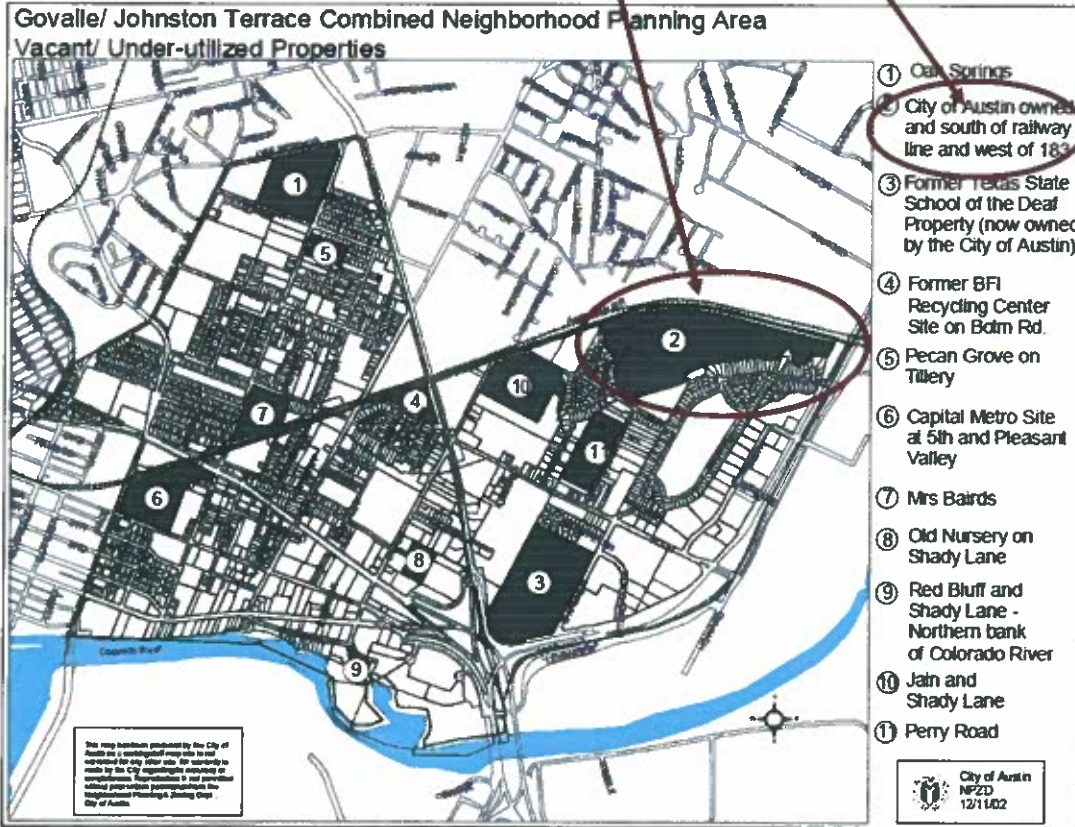
This plan encourages the following uses on these publicly owned properties. The plan also makes recommendations for some of the vacant private properties in the area.

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City of Austin owned land south of railway line and west of 183

This Neighborhood Plan supports the preservation of this area as open space. This area is classified as Priority Woodland and the neighborhood supports its preservation.

Neighborhood representatives also support the idea of developing a trail system through this area, if it can be done without threatening the environment. There are currently proposals for a trail along the northern side of the rail line. Representatives in this planning process would like to see linkages made between that trail and the Johnston Terrace neighborhood including Johnston High School. It is envisioned that this trail system could link residents in neighborhoods east of 183 to Govalle Park and other destinations.



Staff Analysis: The Govalle/Johnston Terrace Neighborhood Plan clearly supports this City-owned property to remain as open space and to accommodate bike and pedestrian trails.

BACKGROUND: The plan amendment and zoning applications were filed on July 27, 2011, during the open period for City Council-approved neighborhood plans located on the east side of I.H.-35.

The City of Austin’s Parks and Recreation Department is planning a trail project that consists of a 7.3 mile trail that will begin in Govalle Park and end at Johnny Morris Road and Daffan Lane. A portion of this trail project is located within the boundaries of the Govalle/Johnston Terrace Combined Neighborhood Plan. (See map on page seven).

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The Govalle/Johnston Terrace Combined Neighborhood Plan was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on March 27, 2003. The boundaries for the planning area are Oak Springs on the north, Airport Boulevard on the east, Town Lake on the south, Pleasant Valley to 7th Street to the Northwestern, and Webberville on the west.

PUBLIC MEETINGS: The plan amendment community meeting was held on Wednesday, September 21, 2011. Three hundred and seventy-seven notices were mailed to property and utility account holders within 500 feet of the property, in addition to neighborhood organizations registered with the City. Thirteen people attended the meeting, including two city staff members.

Greg Montes, PARD, said the City of Austin's Parks and Recreation Department is planning a trail project that consists of a 7.3 mile trail that will begin in Govalle Park and end at Johnny Morris Road and Daffan Lane. The trail will be 10 feet wide, concrete trail that will be ADA compliant. There will be a 7 feet clear zone on each side of the trail

Q: Is the design of the trail decided?

A. A private firm was used to design the trail and to look for at-grade trail heads, which are safer for trail users.

Q. Is there an alternative route other than through East Boggy Creek?

A. No.

Q. Did the City just acquire this land?

A. In 2008 Public Works and Watershed transferred the land to Parks and Recreation Department.

Q. The land is zoned SF-3-NP, why wasn't it zoned for public use when the Parks Department receive the land?

A. Land is rarely zoned P-Public when the Parks Department acquires the land. Parks will wait until it has plans for the property before it submits a zoning change application.

Q. There could be safety issues on this trail. There are transients in the area and a fire two weeks ago. There are children and schools in this area and the trail will be a magnet for crime.

A. There are similar trails in the single family area and people use it. The more people use the trails, then there will be less crime on it.

Q. Will it be a 24-hour trail?

A. Parks has a curfew of 10:00 p.m. There will not be lights on the trail, so it will probably not be used at night.

Q. This is a bad area with homeless people living on trails that exist in the area.

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A. There will be Park Rangers and also Austin Police Department who will monitor the trails.

Q. The existing Govalle Park is not well maintained, why expand the park with more potential users when the City does not maintain the park with the few users that it has.

A. The city can use parkland dedicated money to make improvements to the park.

Q. Where is the money coming from for the 7.3 mile trail?

A. Most of it is Federal money.

Q. Is the East Boggy Creek Greenbelt in the flood plain?

A. Parts of it are, but most of the land is not. The creek was channelized by the Army Corp of Engineers, so there is not much flooding in the area.

Daniel Llanes, member of the Govalle/Johnston Terrace Combined Planning Contact Team, said they will not support the rezoning of the property (approximately 44 acres) that is not within the flood plan because they want affordable housing on that part of the tract. The part of the property within the flood plain (approximately 22 acres) they will support the rezoning to P-Public for the trail. The plan document has the following housing goals:

Housing

- Goal 5:** **Maintain an affordable and stable housing stock. (Sector Plan)**
- Goal 6:** **Foster and protect existing neighborhoods. (Sector Plan)**
- Goal 7:** **Rehabilitate existing deteriorating housing stock. (Sector Plan)**
- Goal 8:** **Increase opportunities for people to live in close proximity to daily needs such as shopping and transportation. (Gov/JT)**

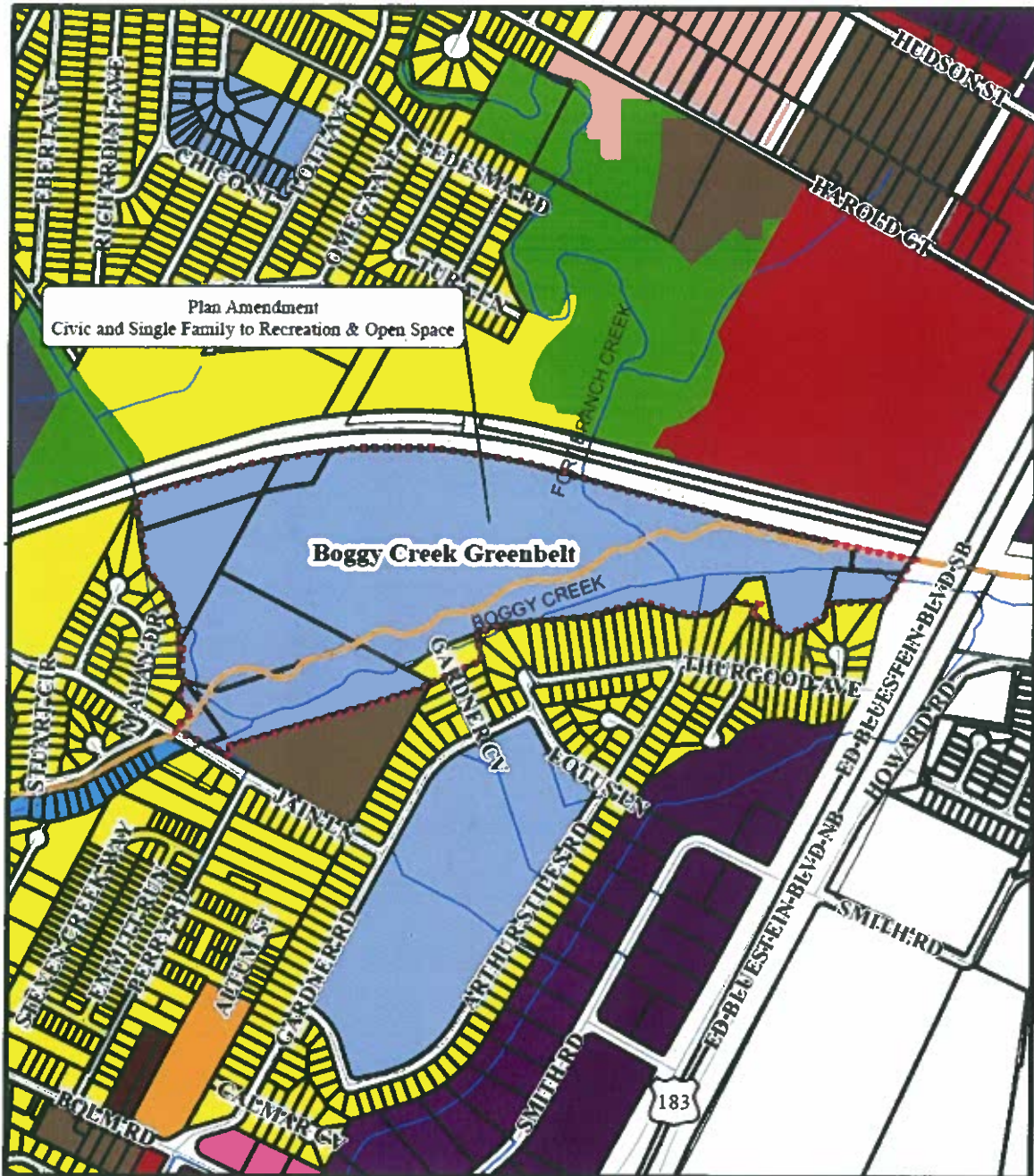
Greg Montes explained that the Parks Department owns the land and cannot let the property be used for affordable housing without the public referendum of Austin voters. Greg provided the following documentation from the City's Charter, Texas Local Government Code and from the Texas Constitution and Statutes. See pages 11 through 14 as support material. This information was confirmed by the City Attorney's office.

CITY COUNCIL DATE: November 3, 2011 **ACTION:** Pending

CASE MANAGER: Maureen Meredith **PHONE:** 974-2695

EMAIL: Maureen.meredith@austintexas.gov

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FLUM Map:
Southern Walnut Creek Trail

Legend

- Proposed Trail
- Future Land Uses
- Single-Family
- Mobile Homes
- Mixed Residential
- Multifamily
- Commercial
- Mixed Use
- Warehouse/Limited Office
- Office
- Mixed Use/Office
- Industry
- Civic
- Recreation & Open Space
- Utilities
- Water

22 July 2011 GM

This map has been produced by the Parks and Recreation Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



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Zoning Map:
Southern Walnut Creek Trail

Legend

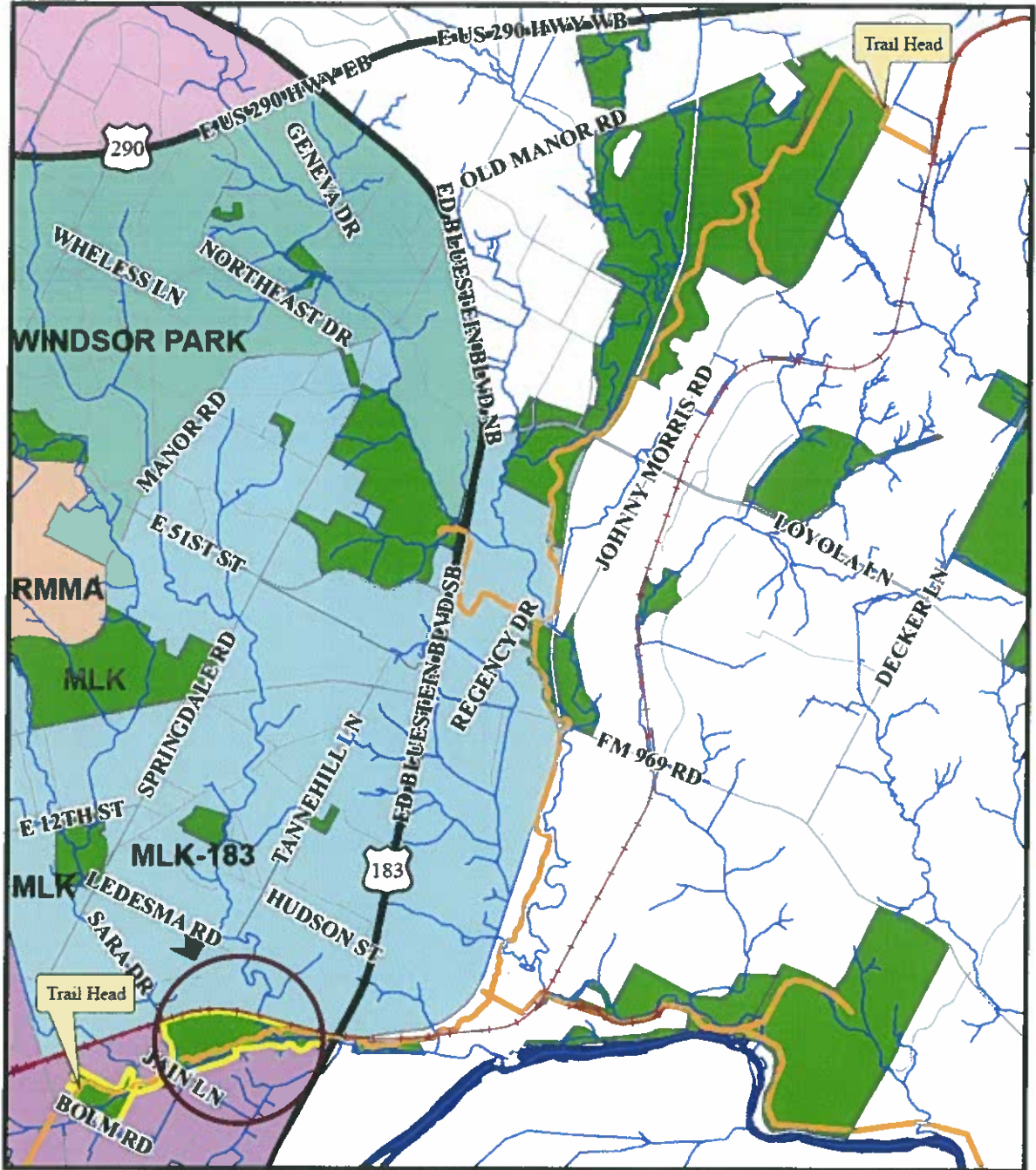
- Proposed Trail
- Park Property to be Rezoned
- City of Austin Parks

22 July 2011 GM

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Zoning Map: Southern Walnut Creek Trail

Legend

- Proposed Trail
- Park Property to be Rezoned
- City of Austin Parks

5 August 2011 GM

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Letter from Govalle/Johnston Terrace Resident

October 4, 2011

Dear Planning Commission,

My name is Angelica Noyola. I have a family home in the Johnston/ Govalle Terrace Neighborhood. I am against the implementation of a Trail system in the Boggy Creek Green Belt. That land has been zoned SF3 and should be made available for affordable housing. The City has not maintained the park presently located in the area very well for years and I fear that another addition of Park Land will go unkempt as well. The City of Austin Watershed Department did not consult the public before gifting the land it owns to the Parks and Recreation department, knowing it was zoned SF3. I attended a meeting regarding this issue and the area residents were not well informed on the issue at hand or the premise of the meeting to be held. I myself only heard of the meeting from another individual. Mailers were sent out but perhaps a better job could have been done with detailing the issue. At the meeting some residents were still confused as to what was entailed in the proposal. If Planning Commission truly wants the communities input I believe another meeting should be held to discuss the scope of the project. It is worrisome that so much has been done on the project before community input was sought. I would have thought that community input would have been the first thought since we would be most impacted by the proposed changes.

If the Planning Commission decides to give the go ahead to this project you will be adding to the problematic issues we currently have with the transient camps. There has been an increased problem with transient camps in the green belt area. Austin Police Department just 1 and a half weeks ago removed a transient camp from the Boggy Creek greenbelt. I feel that if given a paved way to venture deeper into the area that the problem will become worse. There is a Junior High School less than 500 ft from the proposed trail. As well as a High School less than a 1000 ft away. The increased "stranger" traffic causes a major concern. Austin Police Department has had numerous complaints of violence on existing trails such as the trail which runs along Lady Bird Lake. Given the fact that there are so many children in this area I am fearful of the impact it could have on them.

My final thought is this: How can the City of Austin Parks and Recreation Department dare ask that we accept a trail in our backyard when they have FAILED to maintain a safe environment at an existing park which will lead into the trail?

I thank you for your time and attention to my concerns. I know that you will make your decision with the best interest of the existing community in mind.

Respectfully,
Angelica Noyola
Johnston/Govalle Terrace Resident
512-462-2181

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CITY CHARTER

ARTICLE II. THE COUNCIL.

§ 5. POWERS OF THE COUNCIL.

All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council; provided, however, that the council shall have no power to, and shall not:

(a) Sell, convey, lease, mortgage, or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage, or other alienation is to be made.

(b) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

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TEXAS LOCAL GOVERNMENT CODE

CHAPTER 253. SALE OR LEASE OF PROPERTY BY MUNICIPALITIES

§ 253.001. SALE OF PARK LAND, MUNICIPAL BUILDING SITE, OR ABANDONED ROADWAY.

(a) Except as provided by Subsection (b), the governing body of a municipality may sell and convey land or an interest in land that the municipality owns, holds, or claims as a public square, park, or site for the city hall or other municipal building or that is an abandoned part of a street or alley. A sale under this section may include the improvements on the property.

(b) Land owned, held, or claimed as a public square or park may not be sold unless the issue of the sale is submitted to the qualified voters of the municipality at an election and is approved by a majority of the votes received at the election; provided, however, this provision shall not apply to the sale of land or right-of-way for drainage purposes to a district, county, or corporation acting on behalf of a county or district.

(c) To effect the sale, the governing body shall adopt an ordinance directing the municipality's mayor or city manager to execute the conveyance.

(d) The proceeds of the sale may be used only to acquire and improve property for the purposes for which the sold property was used. Failure to so use the proceeds, however, does not impair the title to the sold property acquired by a purchaser for a valuable consideration.

(e) Subsection (b) does not apply to a conveyance of park land that:

(1) is owned by a home-rule municipality with a population of less than 80,000 and that is located in a county bordering the Gulf of Mexico;

(2) is one acre or less;

(3) is part of a park that is 100 acres or less;

(4) is sold or is conveyed as a sale to the owner of adjoining property;

and

(5) is conveyed pursuant to a resolution or an ordinance that:

(A) is adopted under this section;

(B) requires the sale to be with an owner of adjoining property for fair market value as determined by an independent appraisal obtained by the municipality; and

(C) has an effective date before December 31, 1995.

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(f) The election requirements of Subsection (b) do not apply to a conveyance of a park if:

- (1) the park is owned by a home-rule municipality with a population of more than one million;
- (2) it is a park of two acres or less;
- (3) the park is no longer usable and functional as a park;
- (4) the proceeds of the sale will be used to acquire land for park purposes;
- (5) a public hearing on the proposed conveyance is held by the governing body of the home-rule municipality and that body finds that the property is no longer usable and functional as a park; and

(6) the park is conveyed pursuant to an ordinance adopted by the governing body of the home-rule municipality, unless within 60 days from the date of the public hearing the governing body of the home-rule municipality is presented with a petition opposing the conveyance which contains the name, address, and date of signature of no less than 1,500 registered voters residing within the municipal limits of the municipality; then, the governing body of the home-rule municipality shall either deny the conveyance or shall approve the conveyance subject to the election required in Subsection (b); or

(7) the conveyance involves an exchange of two existing parks, situated within a home-rule municipality with a population of more than one million, that together total 1.5 acres or less in size, that are located within 1,000 feet of each other, that are located in an industrial area, that have been found in a public hearing to no longer be usable and functional as parks, and that are conveyed pursuant to an ordinance, adopted by the governing body of that municipality, that has an effective date before December 1, 1993.

(g) A sale made under Subsection (e) is exempt from the notice and bidding requirements in Chapter 272.

(h) Expired.

(i) Subsection (b) does not apply to a conveyance of park land that is:

- (1) owned by a home-rule municipality with a population of more than 625,000;
- (2) less than three acres and part of a larger park that is located in a flood plain or floodway;
- (3) not actively used for recreational purposes;
- (4) sold or conveyed as an interest in land to the owner of an interest in the adjoining property; and
- (5) conveyed pursuant to a resolution or an ordinance that has an effective date before December 31, 2004.

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STATE OF TEXAS STATUTES

PARKS AND WILDLIFE CODE

TITLE 3. PARKS

CHAPTER 26. PROTECTION OF PUBLIC PARKS AND RECREATIONAL LANDS

Sec. 26.001. PROTECTED LAND; NOTICE OF TAKING. (a) A department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of any public land designated and used prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, determines that:

(1) there is no feasible and prudent alternative to the use or taking of such land; and

(2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.

(b) A finding required by Subsection (a) of this section may be made only after notice and a hearing as required by this chapter.

(c) The governing body or officer shall consider clearly enunciated local preferences, and the provisions of this chapter do not constitute a mandatory prohibition against the use of the area if the findings are made that justify the approval of a program or project.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.002. NOTICE OF HEARING. (a) When any program or project requires notice and a public hearing before approval, the notice must be given in writing to the person, organization, department, or agency that has supervision of the land proposed to be used or taken.

(b) The notice must state clearly the proposed program or project and the date and place for the public hearing. The notice must be given at least 30 days before the date for the public hearing.

(c) Notice must also be given to the public by publishing a notice similar to that specified in this section once a week for three consecutive weeks. The last days of publication must not be less than one week or more than two weeks before the date of the hearing. The notice must be published in a newspaper of general circulation, which paper must be published at least six days a week in the county where the land proposed to be used or taken is situated.

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(d) If there is no newspaper that qualifies under Subsection (c) of this section, the notice must be published in a qualifying newspaper that is published in any county adjoining the county where the land is situated. If there is no qualifying newspaper published in any adjoining county, then the notice must be published in a qualifying newspaper published in the nearest county to the county where the land is situated. If there is no qualifying daily newspaper published therein, the notice must be published in any newspaper of general circulation published in the political subdivision affected. If no newspaper is published in the political subdivision, the notice must be published in a newspaper published in the political subdivision nearest the political subdivision affected.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.003. LIMITATIONS ON JUDICIAL REVIEW. A petition for the judicial review of the approval or disapproval of a program or project under this chapter must be filed within 30 days after the approval or disapproval is announced, or the review is barred.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.

Sec. 26.004. EXCLUDED LANDS. A department, agency, board, or political subdivision having control of the public land is not required to comply with this chapter if:

- (1) the land is originally obtained and designated for another public use and is temporarily used as a park, recreation area, or wildlife refuge pending its use for the originally designated purpose;
- (2) the program or project that requires the use or taking of the land being used temporarily as a park, recreation area, or wildlife refuge is the same program or project for which the land was originally obtained and designated; and
- (3) the land has not been designated by the department, agency, political subdivision, county, or municipality for use as a park, recreation area, or wildlife refuge before September 1, 1975.

Added by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, Sec. 2(a), eff. Sept. 1, 1983.