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December 18, 2006

Joe Jaynes, Commissioner
Collin County Commissioners' Court
Collin County Government Center
210 S. McDonald Street, Suite 626
McKinney, TX 75069

Re: Special Utility Districts versus Municipality

Dear Joe:

It is good to hear that you and Senator Shapiro have had a conversation about the importance of appropriate legislation with regard to the development in your county by and through developer-created special districts. As you know, there can be a radical difference between the growth of cities through traditional means, versus what has come to be known as the "Houston" style of development. Our traditional development is the process of the land developer acquiring vacant land, generally annexing it into the city, thereby being provided with water, sewer, fire, police, ambulance and all other city services. In exchange, the developer subdivides the land, places the roads and other utilities necessary for its development, and then dedicates those improvements to the city, for the city's maintenance and operation through the future. The land is developed in accordance with city approved comprehensive planning, which is normally prepared as part of an overall comprehensive plan for the city (and in many cases the county), to provide the "right" mix of residential, commercial, retail, and industrial sites, together with the roads, water, sanitary sewer, and other public utilities necessary to properly maintain the development.

This stands in stark contrast with the developer's use, or misuse, of special districts. In these cases, we have seen the developers acquire land either in or just beyond the ETJ of the city. Rather than work to annex the land, significant effort is made in order that the land is not annexed, and therefore not zoned. Since both city and county have the ability to create comprehensive plans in the ETJ, in the county and unincorporated areas, we find that the MUD developers are, uniformly, proposing densities and uses to be constructed in the special district which bear no relation to either the comprehensive plan of the city, or the county. Too often the proposed development is the one which is intended to make the quickest dollars for the developer, being high density housing. Sadly enough, a special district is just that: a district. Without layering multiple district on top of district, the future occupants of the district find



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themselves wondering how one deputy sheriff is going to serve the needs of 1,000 or more homes, often located some distance from any form of police back-up. The same can be said for special districts' inabilities in the areas of parks, libraries, recreation facilities, paid fire departments, etc. While most of these things can be achieved through multiple districts, the overall cost to the future property owner in doing so is generally far beyond what a municipal resident would pay for the same or greater services.

Perhaps the greatest difficulty with development through special districts is the fundamental issues of special districts themselves. I am familiar with one special district which provides water and sewer services to three towns within its borders. In doing so it provides water and sewer, its intended purpose, at relatively low rates. Contrast the use of that special district with the developer using the district to pay for and finance at tax-free rates 70% or more of the developer's normal land development costs. For the developer, the issue is not the future legal or practical difficulties of the new residence of the starter homes within the district. At that point the developer intends to be moved on to the next conquest. We have had developers tell us in very clear terms that they have no intention of developing property unless they are able to get to create and benefit by special district financing. The advantages to the developer financially are incredible. The disadvantages to the future residents are equally incredible. I can give you substantially more detail and/or examples on how this works, if either you, or the Senator, would like to get together and review the matter.

We are on notice that the well-financed special district lobby is intending to introduce additional legislation. It appears, for example, that legislation will be introduced to allow a public improvement district, or "PID," to make assessments against the property within the PID even though the PID has no debt. This, of course, is done in order that the PID can somehow obtain funds to somehow employ persons to perform the roles normally performed by municipal employees. A PID can be and often is added on top of a freshwater supply district or a municipal utility district in order to attempt to find some legal way for the district to finance and pay for the needs of its new occupants, most of whom have no idea what a special district is when they buy their first home within it.

I have enclosed several documents which I hope will be of assistance to you and the Senator in your discussions. They are as follows:

1. Letter to Senator Royce West as a follow-up to testimony I gave before his committee on September 13, 2006. That letter has two very helpful attachments. One is a brief overview of special districts in Texas, and the other is a one-page commentary on the creation of special districts within the ETJs of municipalities.

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2. The second attachment is a letter of April 5, 2003, as a cover letter to proposed House Bills 2564 and 2565. These bills were prepared as a small step toward some equality in the power between the developer who has just purchased undeveloped land, and the nearby city, or the county.

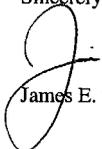
Copies of those proposed bills are attached. I can think of numerous ways that some balance of power can be restored to solve the problem the letter described to Senator West.

3. The third attachment is a Power Point presentation from a speech I gave several years ago. Although Power Points are never complete in and of themselves, looking through it will give you some rough ideas as to how the process can work, and the financial advantage afforded to the developer by financing his project through a special district.

I hope this is helpful to you. I would be honored to discuss these rather complicated issues with you and the Senator, or proposed legislation, or suggest concerns about legislation which will no doubt be introduced by the development lobby.

Please don't hesitate to contact me if I may be of further assistance.

Sincerely yours,



James E. Shepherd

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Enclosures