

# STAFF HANDOUT

January 8, 2009

Dear Residents,

In the December 2008 Brushy Creek Board meeting a citizen voiced a number of concerns about the defined area. In the best interests of our citizens, I believe these concerns and comments need to be publicly addressed point by point.

The first point claimed that the MUD should only keep a 12 month rather than an 18 month tax buffer. Our financial planner, Jan Bartholomew clearly stated later in the December meeting that 12-18 months was reasonable and that MUD was operating within a conservative but acceptable range.

The second item was about the how the five hundred and eighty nine thousand dollars of operations and maintenance taxes collected in the defined area was to be spent. As of November 30, 2008, there was three hundred seventy seven thousand four hundred and eighty two dollars in the defined area O&M tax account and one hundred sixty one thousand one hundred and forty nine dollars in the defined area debt service account. In November of 2005 resolution 05-1117-01 was passed stating that the defined area O & M tax monies would only be used for paying debt service or if approved by the Executive Director of TCEQ, to reimburse the developer for costs in the defined area as a means of reducing the defined area bonds issued or thirdly for operations and maintenance specific to within the defined area.

In the third point, the citizen questioned the use of the four hundred thirty nine thousand dollars of escrowed funds to be applied to augment the 620 lift station and requested that we not pass the associated resolution. The citizen was incorrect in stating these were monies collected in the defined area. Rather, these funds were collected via regular district taxes. The resolution sought to to apply the funds in the defined area to share the lift station resource equitably. Needless to say, all the directors that were present approved the resolution and stand behind that action.

The citizen then goes on to suggest that the bond limit set in the defined area could not possibly be supported by the number of residents. I did a quick "back-of-the-envelope" calculation based on the final build-out numbers in the defined area and the current tax rate. The results indicated it would take about 25 years to pay off the bonds at the current interest rate. Given that the MUD issues bonds on a 30-year fixed rate, the maximum limit that has been set seems well within reason.

The citizen lists three points and claims they prove that the defined area has been taxed unnecessary. Points 1 and 2 were addressed above. Point 3 simply claims that taxation of the defined area is unfair. That point may be better argued with the Texas State Legislature – the entity that created the legalities of Municipal Utility District Defined Areas to begin with.

The citizen also appears to be completely unaware that TCEQ approves all bonds issued by a MUD and suggests that TCEQ might be interested in investigating this MUD. Given the rigor of the process the MUD follows to issue bonds, any fault found by TCEQ in a bond issuance, would suggest an error in their own oversight and approval process.

The citizen closed her comments with the statement that the defined area tax is simply unfair. Given that the fairness of taxation has been argued since, to my knowledge, early Roman times, I doubt anyone on this board would take up that debate. However, the defined area taxation is legal, necessary and in the best interests of the citizens of this district.

It also needs to be stated for the record that prior to December, meetings with directors, the developer, staff and counsel were offered to address this citizen's concerns. The citizen declined those meetings and chose rather to rely on inaccurate and outdated information. It saddens this director that some members of our community would prefer to meet in secret and act out of distrust and blatant ignorance. This board welcomes questions from and open dialogs with its citizens. This entire board has made making Brushy Creek a better place to live for all of its residents the number one priority. I believe we have made great strides towards that goal.

Russ Shermer, Secretary  
Brushy Creek Board of Directors