



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-6514

**Type:** Miscellaneous Item

**In control:** City Council A Session

**On agenda:** 11/29/2018

**Title:** Ordinance approving a development agreement with Wayne Lee Benke, owner of the Public Improvement District property, generally located east of the intersection of Cartwright Trail and Talley Road in the City's extraterritorial jurisdiction.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A Field Notes & Survey, 2. Exhibit B\_Aerial Exhibit, 3. Exhibit C - Draft Development Agreement, 4. Talley Rd PID Final PC Resolution, 5. Draft Ordinance.pdf, 6. Draft Resolution, 7. Ordinance 2018-11-29-0954, 8. Executed Development Agreement

Date	Ver.	Action By	Action	Result
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**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

**COUNCIL DISTRICTS IMPACTED:** Citywide and City Council District 6

**SUBJECT:**

A Public hearing and consideration of the following items related to the proposed Talley Road Special Improvement District: a) The City's conditional consent to the creation by Bexar County of a 232.314 acre Public Improvement District (PID) and b) a Development Agreement between the City and Wayne Lee Benke, owner of the PID property.

**SUMMARY:**

A Public hearing and consideration of the following items related to the proposed Talley Road Special Improvement District: a) a Resolution granting the City's conditional consent to the creation by Bexar County of a 232.314 acre Public Improvement District (PID) and b) an Ordinance authorizing a development agreement, between the City of San Antonio and Wayne Lee Benke, owner of PID property, generally located east of the intersection of Cartwright Trail and Talley Road in the extraterritorial jurisdiction ("ETJ") of the City San Antonio, Bexar County, Texas.

## **BACKGROUND INFORMATION:**

Texas Local Government Code Chapters 372 and 382 allows for the creation of Public Improvement Districts (PIDs), also referred to as Special Improvement Districts, by a city or county. PIDs are considered to be economic development tools used to pay or finance public improvements and economic development within (and that benefit) a defined geographical area which will ultimately become the district. The general nature of the proposed work may include, but is not limited to, the improvement and construction of certain road thoroughfares and collector and arterial roads, acquisition of right-of-way for those road improvements, improvements to all utilities, water, wastewater, and sanitary sewer improvements, associated drainage and trails, and park and recreational improvements, located within the district boundaries. These districts may levy a special assessment as a source of funding and costs are apportioned and paid by land owners within the district that benefit from public improvements and/or services.

In order to create a PID in a county, more than 50 percent of owners of taxable real property liable for assessment within the proposed District area, must submit a petition to the governing body of the county. If the proposed district is located within a city's ETJ, the municipality has the option to object to the formation of the districts pursuant to state law.

In accordance with Section 212.172 of the Texas Local Government Code, a municipality and a land owner may enter into a written agreement by which the municipality will extend the municipality's planning authority, establish development regulations including land use and development standards and provide for the infrastructure of the land.

On October 1, 2018, Wayne Lee Benke petitioned the Bexar County to create a public improvement district, to be named the Talley Road Special Improvement District (District) for land consisting of approximately 232.314 acres generally located east of the intersection of Cartwright Trail and Talley Road, in San Antonio's ETJ. The Property consists of the "Benke Tract" (approximately 222.6 acres) and two segments of Talley Road (approximately 2.444 acres and approximately 7.270 acres). Currently, the Property is undeveloped. The Owner proposes a 1,000 unit single-family residential development, which will be developed in phases. The price point per housing unit averages \$225,000. The Property is more specifically described by the metes and bounds attached hereto as Exhibit "A" and illustrated in Exhibit "B."

Talley Extension Revitalization Initiative, LLC, (Developer) proposes to purchase the Benke Tract upon the County's creation of the District. The Developer intends to develop the Benke Tract which currently is undeveloped land as a single-family residential development. The Developer plans to construct public improvements and infrastructure as further described and depicted in the proposed Westgate Subdivision Master Development Plan (MDP) attached hereto as Exhibit "C."

On October 23, 2018 the Bexar County Commissioners Court approved a resolution stating their intent to create the District. The County would authorize the District to impose an ad valorem tax on future property owners within the District.

In addition, the Owner has requested the City not to object to the creation of the PID in their ETJ and requested a thirty (30) year development agreement or non-annexation for the PID property. The Owner indicated that the agreement would provide greater certainty in the development of the project, which would help secure financing for the proposed project.

## **ISSUE:**

If approved, this Resolution by the City would grant conditional consent to the establishment of the PID by Bexar County and the Ordinance would authorize the execution of a Development Agreement (Agreement) between the City and Owner of the PID property. [The Agreement has been attached as “Attachment A.”]

The conditional consent of the City includes the delegation of the road district powers and the power to provide water, wastewater and drainage facilities is required by state law, in order for this PID to exercise those powers.

However, the City does not consent to the following:

- the exercise of eminent domain powers by the Talley Road PID;
- the power to annex, expand or exclude land into the PID’s existing boundaries;
- the power to retail or sell water, waste water and drainage services;
- the PID assessment to property owners annually that is any greater than the City’s ad valorem tax rate.

The proposed Agreement will include the following terms and obligations between the City and the Owner with respect to the development of the PID property.

- The City will guarantee the continuation of the extraterritorial status of the PID property.
- The City will not annex property within the PID boundaries for thirty (30) years, after the effective date of the development agreement.
- The Owner agrees to consent to annexation by the City upon the termination of the Agreement.
- Upon the expiration or termination of the Agreement through a violation of the development agreement by the owner of the property, the City would have the option to annex the property.
- In the event the City would annex the PID Property according the provisions of the Agreement, the City and the Owner mutually agree to the services the City would provide to the PID Property as required by the Texas Local Government Code.
- The Owner agrees to comply with all municipal rules, regulations, orders, ordinances and other laws applicable to all properties within the City’s ETJ during all phases of development and construction of the PID Project and during the term of the Agreement.

The proposed timeline for the formation of the District by the County and approval of the Development Agreement is as follows:

<b><u>Dates</u></b>	<b><u>Schedule of Action</u></b>
October 23, 2018	Bexar County Commissioners Court Meeting adopt a resolution stating their intent to create the District
November 14, 2018	San Antonio Planning Commission Public Hearing and Recommendation of the Development Agreement
November 29, 2018	City Council’s consideration and action
December 4, 2018	Commissioners Court consideration to create the PID and appoint a Board of Directors
February 3 - 15, 2019	PID’s Board of Directors organizational meeting
May 4, 2019	Bexar County will hold an election to confirm the PID establishment by land owners and approve PID’s ad valorem tax rate

**ALTERNATIVES:**

A denial of the Resolution would result in the District not being created by Bexar County. This action would require the Property Owner to seek a different financing mechanism for the development of the property. It may result in the development and construction of infrastructure occurring in a traditional method rather in the manner proposed by the developer.

City Council may require Staff to re-negotiate the terms of the agreement which would delay the activation of development in the District.

**FISCAL IMPACT:**

This item is to consider the resolution granting the City's conditional consent to the creation by Bexar County of a Public Improvement District (PID) in the extraterritorial jurisdiction ("ETJ") of the City San Antonio, Bexar County, Texas and an ordinance authorizing a development agreement, between the City of San Antonio and Wayne Lee Benke, owner of PID property. There is no fiscal impact to the City of San Antonio associated with the passage of this resolution and ordinance.

**RECOMMENDATION:**

Staff recommends approval of a) a Resolution granting the City's conditional consent to the creation of a 232.314 acre PID by Bexar County, to be named the Talley Road Special Improvement District; and b) an Ordinance authorizing the execution of a Development Agreement between the City and Wayne Lee Benke, owner of the PID property.