

Memorandum



DATE January 23, 2009

TO Members of the Economic Development Committee: Ron Natinsky (Chair),
Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane,
Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Municipal Management Districts**

On January 27, 2009, the Economic Development Committee will receive an updated briefing on Municipal Management Districts.

A copy of the briefing is attached. Staff will be available at the meeting to answer questions.

Should you have any questions, please contact me at (214) 670-3314.


A.C. Gonzalez
Assistant City Manager

- C: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom Perkins, City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
Forest Turner, Interim Assistant City Manager
Ramon Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Director, Budget & Management Services
David Cook, Chief Financial Officer
Karl Zavitkovsky, Director, Office of Economic Development
Hammond Perot, Assistant Director, Office of Economic Development
Helena Stephens-Thompson, Assistant to the City Manager

Municipal Management Districts

Economic Development Committee

January 27, 2009



Purpose

- Review MMD characteristics and discuss pros and cons
- Respond to questions posed at 1/20/09 Economic Development Committee briefing
- Provide Houston-based examples
- Describe three MMD requests for City sponsorship
- Advise on important dates for MMD creation during 81st Legislature
- Propose recommendations and next steps

Overview

- **Municipal Management Districts (MMD)** are special districts that are:
Self governed, but must be **approved by the host municipality**
 - have the ability to construct public infrastructure and provide services within District approved service plan.
- Created either:
 - pursuant to Ch.375, Local Government Code, through the Texas Commission on Environmental Quality (TECQ,) or by local law enacted by the State Legislature.
- **Three** current **applicants** wish to seek legislative approval to create a **MMD**.
 - **INCAP**: 313 acres in North Oak Cliff “River District”
 - **Trinity River West Project**: 342 acres in West Dallas proximate to exit off Calatrava Bridge currently under construction
 - **Cypress Waters (Billingsley)**: 942 acre mixed-use community, located at northwest corner of LBJ Freeway and Belt Line Road

Overview, cont'd.

- MMDs may issue Tax Exempt Bonds **BUT bond debt is not city debt** and does **not impact city bonding capacity**.
 - May **levy taxes, assessments** and **impact fees** in accordance with service plan. Assessments only by petition of affected property owners and property taxes require approval by majority of eligible voters in district.
 - **Bond issuances** must be **approved by City Council**.
- **Often combined with TIFs** to provide funding necessary to finance infrastructure improvements and supplement city's capital investments
- There is significant use of this tool in other areas of the State
 - Operated in Houston since mid-1990s.
 - Several other Texas cities have established MMDs

What is the purpose of a Municipal Management District?

- Promote, develop, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, arts, economic development, safety and public welfare within a **defined area**.
- Provide and enhance supplemental services to the area.
- Create an independent financing mechanism to finance these services.
- Focused primarily on **commercial development** or **business activity**.

How are MMDs Created?

- **MMDs** can be **created in two ways:**
 - Through formal application to **Texas Commission on Environmental Quality (TECQ)** in accordance with the provisions of Chapter 375, Local Government Code
 - involves nine months process
 - serves primarily commercial development
 - requires a petition signed by owners of a majority of the assessed real property in proposed district
 - Through a special local bill in the **State Legislature**
 - must be supported by local municipality and House/Senate authors and sponsors (four months)

What are MMD Powers and Duties?

- **Are Self-governed** and a **political sub-division** of the **State**, but **City** has **ability to require checks and balances** in formatting State legislation. This assumes special legislation
- Provides **complimentary and supplemental services**, but does not replace services provided by municipality
- **May levy taxes, assessments or impact fees** in accordance with its approved service plan. **Assessments** must be requested by **petition** of affected **property owners**. **Real Property Taxes** must be approved by a **majority** of **eligible voters** in District.
- Has powers applicable to conservation and reclamation. Districts created under Article XVI, Section 59, Texas Constitution, and Chapter 54, Water Code (this provides Ad Valorem taxing authority)

What are MMD Powers and Duties?

- Has powers of road districts and road utility districts created under Article III, Section 52, Texas Constitution, including power to levy Ad Valorem Taxes.
- Has powers conferred by Chapters 365 and 441, Transportation Code.

How is MMD Governed?

- This discussion assumes special law and the tests generally track Chapter 375 of Local Government Code.
 - Initial **board appointed** by **creating legislation**.
 - **New appointment/reappointments** recommended by governing board and approved by **City Council**.
 - Four year staggered terms
 - Board eligibility:
 - At least 18 years old
 - Resident or owner of property in the District
 - Owner of stock of a corporate owner of property in District
 - Owner of a beneficial interest in Trust that owns property in District
 - An agent, employee or tenant of a person that owns property in the District

What are Permitted Services and Projects?

- Economic Development
- Business Recruitment
- Promotion of Health and Sanitation
- Public Safety, Traffic Control and Recreation
- Landscaping, Lighting and Signs
- Streets, Walkways and Drainage
- Solid Waste, Water, Sewer and Power Facilities
- Parks, Historic Areas, Works of Art
- Parking Facilities and Transit Stations

How Does the MMD Generate Revenue?

- May **issue bonds** allowed by statute and its local governing municipality
- Bond debt is **not City debt** and **does not impact City bonding capacity**
- Bond debt **supported by Real Property Taxes, Assessments or Impact Fees** (Assessments must be requested by petition of affected property owners.) Real Property taxes must be approved by a majority of eligible voters in District
- Under Chapter 375, District may not finance services and improvement projects unless petitioner requesting those services and improvement projects submitted by either owners of 50 percent or more of assessed value in district or owners of 50 percent or more of surface area of district, excluding publicly owned lands and lands exempt from assessment.

How Do Assessments Work?

- Similar to **PID process**
- Assessment is **based on appraised value** as determined by **DCAD** (Assessment CAPS addressed in service plan)
- **Statute provides that all property owners** (residential and commercial) in MMD are **subject to assessment. As a matter of practice, only commercial property owners taxed (INCAP and Trinity River West proposals only tax commercial.)**
 - Properties owned by **non-profits, churches, governmental entities** and **utilities are exempt**
 - **MMD may create full or partial exemptions** for all homesteads, disabled individuals and individuals who are 65 years or older.
- Assessments are due on January 31st, same date as property taxes (subject to penalties and interest just like AD Valorem taxes)
- Assessment creates a property lien in same manner as Ad Valorem taxes.
 - Personal liability of owner of record as of Jan. 1 of year assessment imposed
 - District's lien is subordinate to county, city, school or hospital district Ad Valorem Taxes.

Dissolution

- MMD exists until **dissolved by:**
 - **Petition** by **property owners**
 - **Vote** of **board**
 - **Resolution** of **City Council**

MMDs: Pros

- Strong powers by law to address development needs
- May **levy special Real Property tax and assessments** under its authority
- May **impose impact fees** under its authority
- May **issue bonds with City approval**
- May **provide services** that are **supplemental** and/or **complimentary to City** services
- May be **used** in conjunction **with a TIF** as a financing entity **to support TIF revenue bonds or vice versa**
- **Bond debt is not City debt** and does **not impact City bonding capacity**

MMDs: Cons

- **Strong powers** may be appropriate, but are **more than prior Councils have been willing to give**
- Power to levy assessments is appropriate for well defined areas where redevelopment is likely, but less appropriate for wide areas with diverse ownership interests.
- **Power to approve impact fees** is a power **previous Councils have not ceded.**
- Cumbersome and inflexible structure imposed by law
- **City ability to terminate** is unclear, especially if there is outstanding debt
- **Control issue can become a challenge** between District Board and City Council due to incompatible political perspectives about development priorities.
- The added level of taxation can render some Districts non-viable (too low a rate generates insufficient financing to fund projects, while too high a rate, makes the area less marketable.)
- **Limited ability to finance improvements without Ad Valorem Tax support.** This is the PID problem if assessments are not deemed credit worthy by public debt markets. Could become a more expensive form of borrowing, Ad Valorem Tax sets up different tax rates under City, which could be confusing.

Questions & Answers

Q1) If the MMD **application** is made to the **TECQ**, does it **require support** from the **local municipality**?

A1) **Yes.** Chapter 375.022 (6) requires that an application to the TCEQ must include a resolution of the governing body of the municipality in support of the creation of the district.

Questions & Answers

- Q2) **Can the City require** an **MMD** to have a **higher standard (65 percent) for landowner consent** than required by Chapter 375 of local government code? If so, how is this accomplished?
- A2) **Yes.** The city can require more stringent provisions. The **creation bill would need to state that provision.** The creation bill is a local bill and provisions may be added that require less and or more than what chapter 375 of the local government code states. Currently, Chapter 375 requires petitions from:
- Owners of 50% or more of the assessed value of the property in the district as determined from the most recent certified county tax rolls, or
 - The owners of 50% or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas, and any other property exempt from assessment under Section 375.162 or 375.163 as determined from the most certified county tax rolls
- In addition, under chapter 375, the board may not call a bond election unless a written petition has been filed with the board requesting an election signed by owners of real property who comply with provisions a) and b) stated above. However, **bonds payable in whole or part from taxes may not be issued unless approved by a majority or any larger percentage if required by the constitution of the qualified voters in the district** voting at an election held for that purpose. Bonds payable from sources other than taxes may be issued by the board, and assessments may be levied without approval at an election.
- To affect the above, a **district must obtain the approval of the governing body of the municipality** in which it is located **for bond issues** for an improvement project and the plans and specifications of an improvement project financed by the bond issue before the bonds may be issued.

Questions & Answers

Q3) **How are residential property owners protected from additional assessments?**

A3) In accordance with Chapter 375.161, the **board may not impose an impact fee, assessment, tax or other requirement** for payment, construction, alteration, or dedication under this chapter **on single-family detached residential property, duplex, triplexes, and quadraplexes.** The local bills, as written, comply with Chapter 375.161.

Questions & Answers

- Q4) What are the **measures a City** can take to **protect itself** from the **creation of multiple "independent mini-municipalities"** and insure coordinated infrastructure financing and maintenance once created?
- A4) The applicants are proposing a **development agreement between the city and the district** to set forth powers and responsibilities with regard to development projects and maintenance of the same. In addition, Chapter 375 and the local bill contain several provisions that limit the authority of the district and its board.
- For example, Chapter 375.207 states the **district must obtain the approval of the governing body** of the **municipality** for **bond issues, approval of five-year capital improvement plans**, approval of **plans and specifications** of any improvement project that **involves the use of rights-of-way of streets, roads, or highways** or the **use of municipal land** or any easements granted by the municipality.
- As stated below the district **may not annex property without the consent** of the **governing body** of the **municipality**.
- Also, Chapter 375 states a **municipality is not obligated to pay any bonds, notes or obligations of the district**, unless the municipality in which a district is located, by a vote of not less than two-thirds of its membership, may adopt an ordinance dissolving the district. On the adoption of the dissolution ordinance, the district is dissolved, and, the municipality succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

Questions & Answers

Q5) **How can additional property owners become part of an MMD once it is created? What is the process?**

A5) The **board may add or remove territory** under Subchapter J, Chapter 49, and Section 54.016, Water Code, except that the addition or removal of the territory **must be approved by:**

- (a) the **governing body of the City;** and
- (b) the **owners of the territory being added or removed;**

The reference to a tax in Subchapter J, Chapter 49, or Section 54.016, Water Code, means an ad valorem tax; and territory may not be removed from the district if bonds or other obligations of the district payable, wholly or partly, from ad valorem taxes or assessments levied or assessed on the territory are outstanding.

Questions & Answers

Q6) How do **TIFs and MMDs interact**? Explain the process.

A6) The City, MMD and TIF work through a **development agreement** that **stipulates** each one's **responsibilities**.

In other instances, the TIF and MMD work together on a **contract basis** whereby the MMD is responsible for the maintenance of certain TIF improvements and also operates as a marketing and communication arm of the area to promote economic development.

MMDs and TIFs interact in various ways. The **typical approach** is that the **TIF** is the **revenue engine** for **infrastructure construction and reconstruction** while the **MMD** is the **financing arm and maintenance arm** of the **TIF overlay**. In the case of the **Uptown MMD/TIF in Houston**, the **MMD issued voter authorized bonds to construct signature streetscape, landscape and wayfinding monumentation** on boulevards, entry points and intersections. The **TIF** through its Redevelopment Authority **issued debt to pay for the construction and reconstruction of streets and intersections** to improve mobility in the commercial area.

In the case of the **Arlington Viridian MMD** and TIF Number 6, the **MMD will issue tax obligation bonds backed** by both an **ad valorem tax and the increment revenue from the TIF**. The **MMD operates** through a **development agreement** with the **city and TIF**. The development agreement sets forth the terms of the financing and development and maintenance obligations.

Questions & Answers

Q7) Do the **boundaries** of the **proposed MMDs** **include** any **properties not currently owned by the sponsor groups**?

A7) **No**, with the **exception** of **Cypress Waters** (Billingsley) which **includes some City of Coppell land**

Houston: MMDs with TIF Overlays

- **Uptown (Galleria)**

- **TIF**

- Implementing mobility improvements including right-of-way acquisition, street widening, intersection improvements, and storm drainage associated with street reconstruction
 - Encourage \$1.1 billion in new development and \$341 million in new tax revenues

- **MMD**

- Issues \$20 million in bond debt for infrastructure improvements including major streetscape, signage, way finding, and landscaping enhancements
 - Traffic operations / monitoring through cameras to address traffic flows with real-time adjustments to the traffic control systems
 - Ongoing public maintenance and beautification
 - Economic development
 - Communication and marketing through major holiday special events

Houston: MMDs with TIF Overlays

- **Midtown**

- **TIF**

- Reimbursed City from increment for certain underground water, wastewater, and storm drainage facilities to help jumpstart redevelopment
 - Entered into 40+ developer reimbursement agreements to repay private advances for infrastructure improvements and linear park development
 - Provide capital for infrastructure, security enhancing streetscapes, schools and green space
 - Bring together other organizations for creation of new projects
 - Initiate a program to cleanup or demolish dangerous buildings or illegal businesses
 - Funded a business incubation facility for business development in the CBD

- **MMD**

- Constructed light rail enhancements and provides on-going maintenance
 - Provided streetscape enhancements including street benches, decorative lighting, landscaping and way finding, and maintenance
 - Marketing and perception – foster community spirit and create marketing strategies
 - Urban planning – enhance urban nature of Midtown
 - Services and maintenance – enhance district’s pedestrian nature, viability and image by providing well-maintained public spaces and right-of-ways
 - Public safety – enhanced services to deter and reduce crime
 - Residential area added by petition of property owners who requested annexation to avail the neighborhood of the supplemental services provided by the MMD

Houston: MMDs with TIF Overlays

- **Upper Kirby**

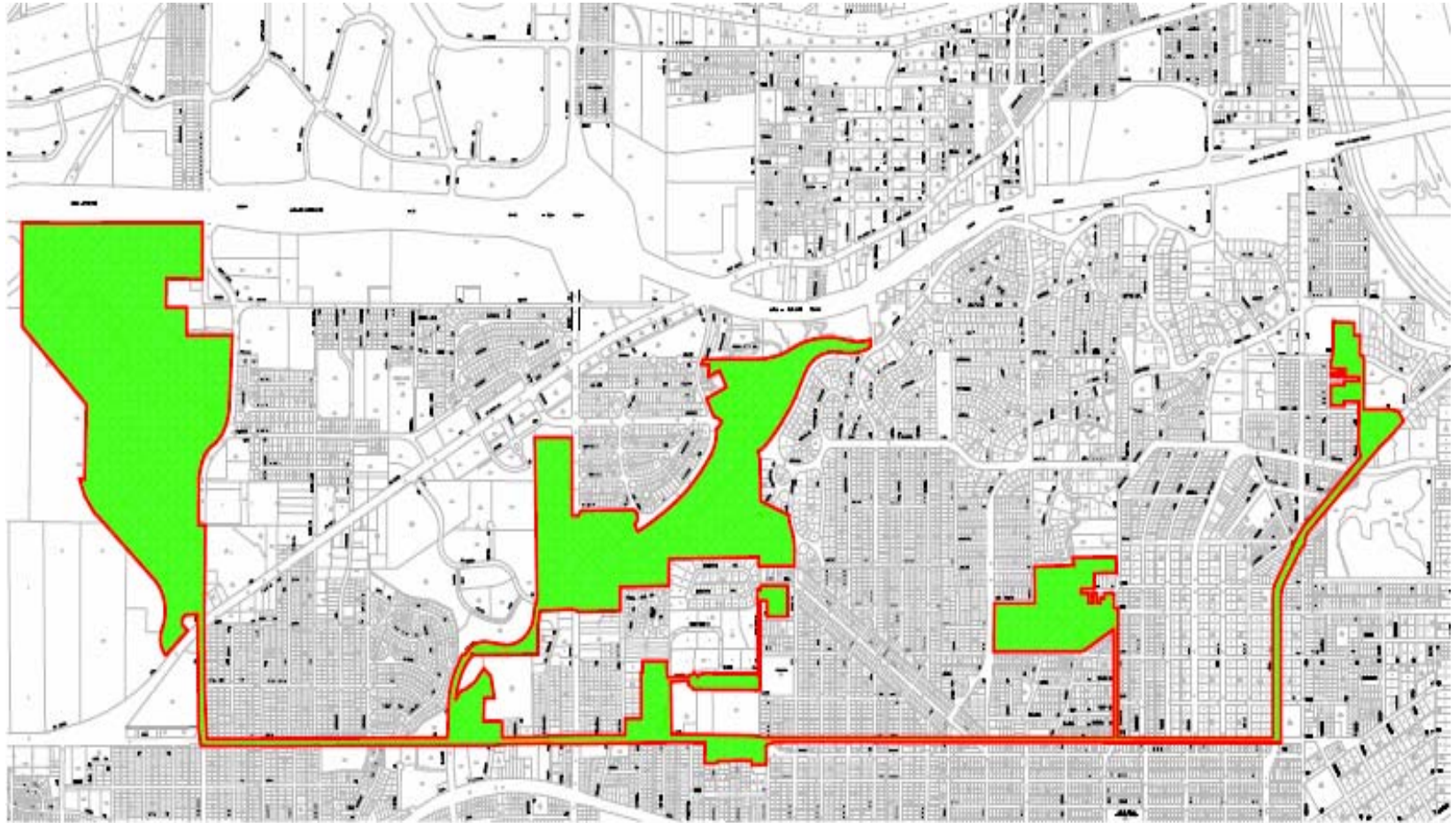
- **TIF**

- Major storm drainage improvements to alleviate flooding
 - Safety and security infrastructure improvements
 - Right-of-way acquisition for street widening projects
 - Traffic mobility improvements
 - Levy Park improvements (City Park)
 - Richmond Avenue Esplanades improvements
 - Way finding signage
 - Traffic / mobility and storm drainage studies
 - Landscaping in the improved streets

- **MMD**

- Worked with city to establish gateway / scenic district
 - Paid for Upper Kirby master plan
 - Provide enhanced public safety – crime reduction services through Precinct One constable patrol
 - Paid for urban design and streetscape plan
 - Provide right-of-way maintenance and cleanup
 - Adoption of Levy Park (City Park) to provide maintenance, District Street Esplanades, TxDOT 59 Underpasses, and right-of-ways within district boundaries
 - Provide graffiti abatement / bandit sign removal
 - General district operations
 - Public affairs and marketing of area
 - Liaison to City of Houston, Harris County, TxDOT and METRO on behalf of businesses

Proposed North Oak Cliff (INCAP) MMD



Proposed North Oak Cliff (INCAP) MMD Development Proposal

- **313 Acres of urban infill** development project in the River District Area.
- Project is mixed use, and contemplates the development of high density work force housing in **close proximity** to the city's **Central Business District**, Victory Park, Uptown and Trinity River Urban Lakes project.
- The development will also add synergy to the surrounding areas recently developed and create a more vibrant urban core.
- The trend of movement back from the outlying areas is anticipated to increase the overall viability of this project.
- Well known infill development locations such as Oak Lawn, Uptown, Victory Park and others are almost fully developed. The remaining available land is very scarce and costly.
- The River District offers the same proximity to the major urban areas mentioned above coupled with better topography, more mature tree canopy, and added amenities such as the Bishop Arts District and Stevens Park Golf Course.
- The area has been **designated** as a **Tax Increment Reinvestment Zone**.
- **Funding** from the zone will **not pay for all the development costs** associated with a high quality development.

Proposed North Oak Cliff (INCAP) MMD

- **Budgeted Davis Garden TIF District project costs**
 - Environmental remediation
 - Infrastructure improvements
 - Open space, parks, trails, and streetscaping improvements
 - Affordable housing
 - Zone administration and implementation
- **Davis Garden TIF District Budget: \$60.1 million**

Proposed North Oak Cliff (INCAP) MMD

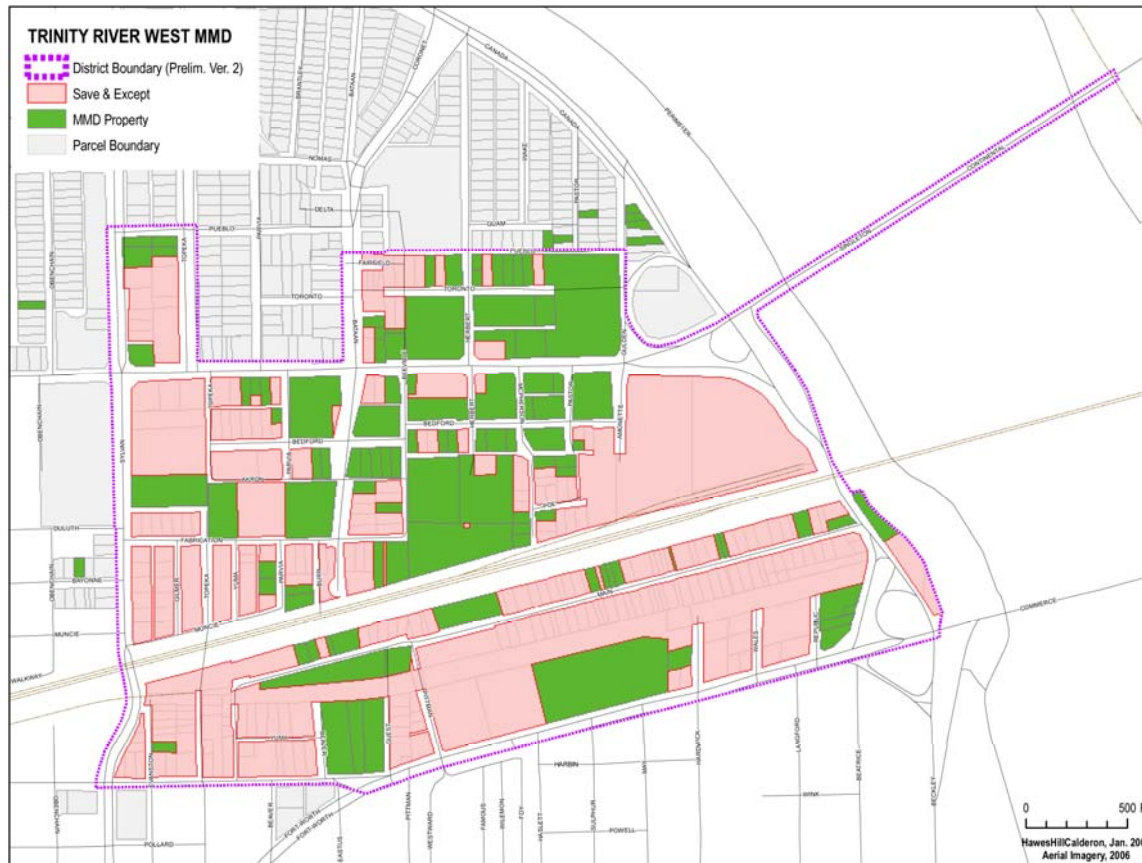
- Contemplated **MMD-financed projects**
 - OCTA streetcar improvements
 - Additional hike and bike trail and reclamation improvements on Combs Creek
 - I-30 frontage road improvements at Pinnacle Park for retail development
 - Funding for additional street construction and utilities
 - Way finding and streetscaping improvements including maintenance
 - Improvements to area parks – Bishop Arts, Stevens Park, Trinity River Corridor Park
 - Grant program for low-income college students
- **Estimated funding: \$110 million**

Proposed North Oak Cliff (INCAP) MMD

- Anticipated **MMD-financed costs leveraging approved city bond funds**
 - Improvements to Stevens Park Golf Course
 - Combs Creek erosion control and public trails system
 - Streets and related underground utility improvements
 - Additional park and green space improvements

Proposed Trinity River West MMD

- Green properties only are in the MMD



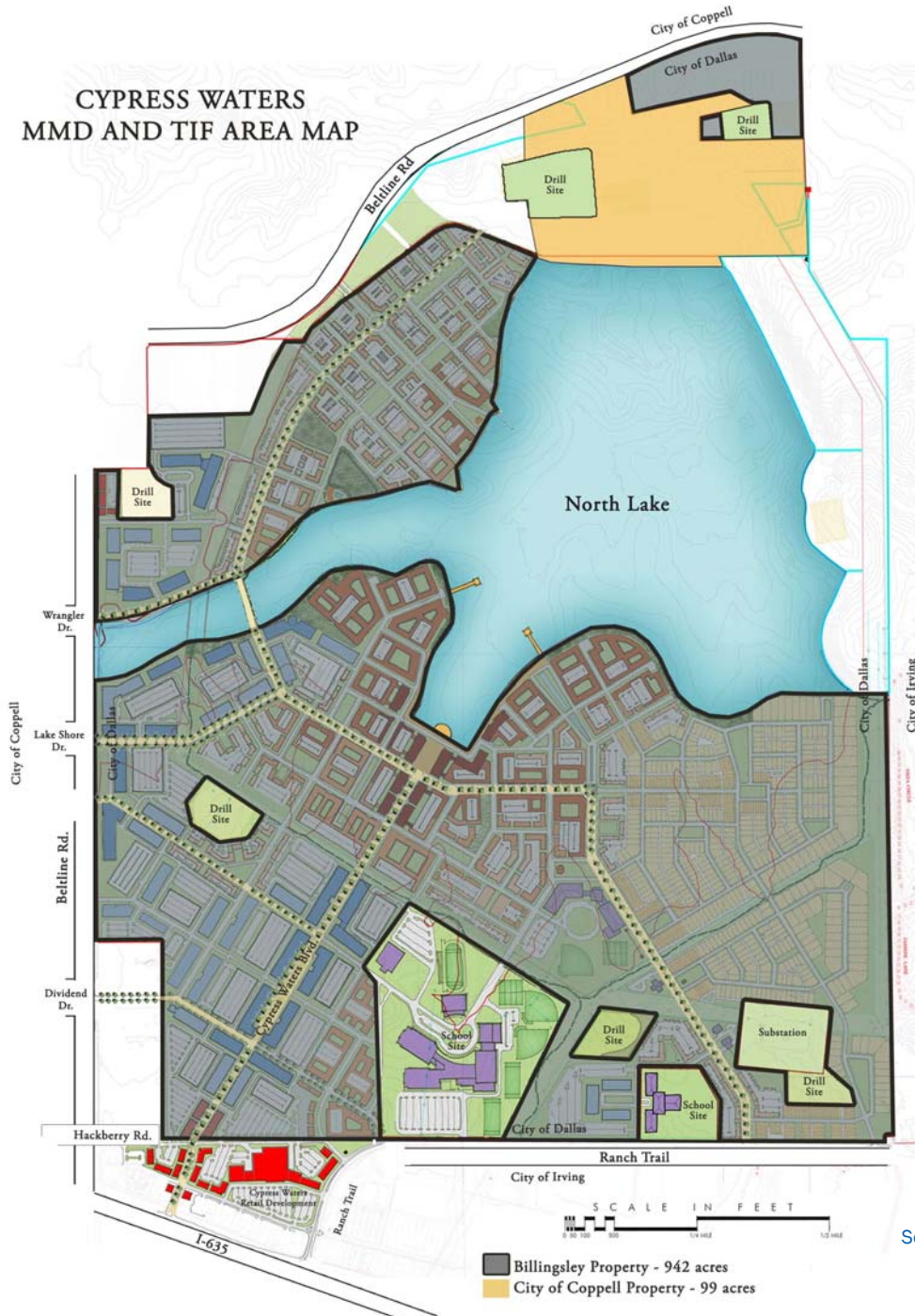
Proposed Trinity River West MMD

- **Overlay TIF District** is anticipated to help **finance**
 - Up to three miles of major arterial street construction / reconstruction
 - Up to five miles of minor arterial street construction / reconstruction
 - Proposed relocation of Beckley Road to Amonette
 - Extension of Amonette to Commerce with tunnel connection to Commerce Street
 - Replacement of underground utilities for all roadways to replace aging or under-capacity water, wastewater, and storm sewer systems for the area
 - Five major gateway intersection treatment improvements with enhanced landscaping, markers, pavers, and sidewalk upgrades
 - 8 to 10 minor intersection improvement projects within the district

Proposed Trinity River West MMD

- The **MMD** is contemplated **to finance infrastructure and supplemental services**
 - Connector to trolley system proposed for North Oak Cliff area
 - Enhanced landscaping and maintenance
 - Installation of distinctive lighting
 - Construction of way finding and branding surface treatments
 - Development of green spaces
 - Environmental remediation
 - Cost sharing with the City of Dallas on Trinity River projects
 - Maintenance of TIF-financed intersections and landscaping
 - Contract safety and security patrolling
- **MMD-funded activities** are projected to be in excess of **\$150 million** over time

CYPRESS WATERS
MMD AND TIF AREA MAP



Proposed Cypress Waters (Billingsley) MMD

- MMD includes grey and yellow areas
- Yellow sites owned by the City of Coppell but are locations for future transit infrastructure

Proposed Cypress Waters (Billingsley) MMD

- Five miles from DFW airport, located at northwest corner of LBJ Freeway & Belt Line Road, across from Citicorp's Dallas campus and the Royal Tech office area
- Surrounds Northlake, a 360 acre lake (after land reclamation is completed)
- Majority of the site resides in the Coppell Independent School District (CISD)
- An opportunity to connect and integrate with the DART Cotton Belt Line
- Estimated taxable value of \$2.9 billion when fully built out (25 years)
- Infrastructure costs include utilities, roads, landscaping, lake land reclamation, parks, and transit development

Cypress Waters MMD & TIF Uses

	TIF	MMD	Developer	City	County	Other
Primary utility infrastructure for 1,000 acres	X	X		X		
Primary development roads	X	X	X			
Offsite traffic improvements (to be determined)					X	X
Lake land reclamation	X		X			
Waterfront and park land		X	X		X	X
City operations		X		X		
DART transit infrastructure	X				X	X

Important Dates for MMD Creation During the 81st Legislature

- January 20 and January 27, 2009 – Economic Development Committee Briefed on MMDs.
- February 11, 2009 – City Council considers ordinance/resolution consenting to creation of district.
- February 12, 2009 – Notice of intent to file legislation printed in newspaper; letter of intent to file legislation sent to each person who owns real property in proposed district.
- March 13, 2009 – Earliest date bill can be filed (following 30-day notice period.)
- February-April 2009 – Bill assigned to committees; committee hearings held.

Important Dates for MMD Creation During the 81st Legislature

- May 22, 2009 – Last day for house to consider local house bills.
- May 27, 2009 – Last day for house to consider local and consent senate bills on second reading or any senate bills on third reading. Last day for senate to consider any bills on third reading.
- June 1, 2009 – Last day of session
- June 21, 2009 – Last day governor can sign or veto bills passed during session.
- August 31, 2009 – Date that bills without specific effective dates (that could not be effective immediately) become law.

Conclusions and Recommendations

- MMDs are **powerful development tools** which have proved to be effective when **properly structured** and **focused** on **well defined areas**
- They are **self-taxing vehicles** with the ability to **levy property taxes, special assessments** and **impose Impact Fees**, the revenues from which **support** the **issuance of Bonds** which **require Council approval**, but **don't impact City Bonding Capacity**.
- **MMDs** are **often combined with TIFs** to provide supplemental revenues for infrastructure and other public improvements.
- **Primary issue** is **control** which must be addressed carefully in the enabling legislation

Conclusions and Recommendations

- **To mitigate control issues**, recommend proposed **state bill contain a provision suspending the power** of the Districts to **issue/create debt** of any kind or **impose taxes/assessments** until **City of Dallas and Districts negotiate/approve a mutually acceptable development agreement**
 - Covers development plans and financing of public infrastructure
 - Must include all elements of development including maintenance and ownership of completed infrastructure
- **Request approval of Economic Development Committee** for Council approval of an **ordinance/resolution consenting to creation three Municipal Management Districts on Feb. 11th.**