

# Memorandum



CITY OF DALLAS

DATE January 15, 2010

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

SUBJECT **An ordinance amending Chapter 12A of the Dallas City Code to exempt members of municipal management district boards from the city's code of ethics, January 27, 2010 Council Agenda**

On Tuesday, January 19, 2010, the Economic Development Committee will be briefed on the proposed amendment to the Dallas City Code to exempt municipal management district (MMD) boards from the city's code of ethics.

Briefing material attached.

If 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, Administrative Judge Municipal Court  
Ryan S. Evans, First Assistant City Manager  
Forest Turner, Assistant City Manager  
Jill A. Jordan P.E., Assistant City Manager  
David Cook, Chief Financial Officer  
Jean Chipperfield, Director, Office of Financial Services  
Karl Zavitkovsky, Director, Office of Economic Development  
Hammond Perot, Assistant Director, Office of Economic Development  
Helena Stevens-Thompson, Assistant to the City Manager

# Municipal Management Districts (MMDs) Policies and Code Amendments

Economic Development Committee

January 19, 2009



Office of Economic Development  
[WWW.DALLAS-ECODEV.ORG](http://WWW.DALLAS-ECODEV.ORG)



# Purpose

- ◆ **Update** on the creation of three MMDs within the City of Dallas
- ◆ **Discuss Code of Ethics ordinance amendment** needed to facilitate the operation of the MMDs
- ◆ Recommend next steps

# Background

- ◆ On February 11, 2009, City Council passed resolutions declaring the City of Dallas' support of and consent to the creation of three municipal management districts (MMDs).
- ◆ In the 2009 session, the State Legislature passed legislation creating (under Special District Local Laws Code):
  - Cypress Waters MMD – Chapter 3874
  - North Oak Cliff MMD – Chapter 3884
  - Trinity River West MMD – Chapter 3871

# Background

- ◆ MMD statutes accommodated the limitations and conditions in the City's resolutions with one exception related to petition requirements for calling an ad valorem election.
- ◆ The City's resolution stated that prior to initiating any action to further develop the area through the use of the MMD that any tax or fee or assessment levied by the District and any additions of property to the District must be **approved by record owners of taxable real property and** either: owners of taxable real property representing more than **65% of the appraised value** of taxable real property in the District **or** owners who constitute more than **65% of the area of all taxable real property** in the District.
- ◆ The final statutes provide that the MMD may call an ad valorem election if at least 65% of record owners **or** owners representing 65% of the appraised value of real property in the district make a request by petition (see appendix for more detail).
- ◆ An **ad valorem tax** must be **approved by a majority of the registered voters of the district** in such an election.



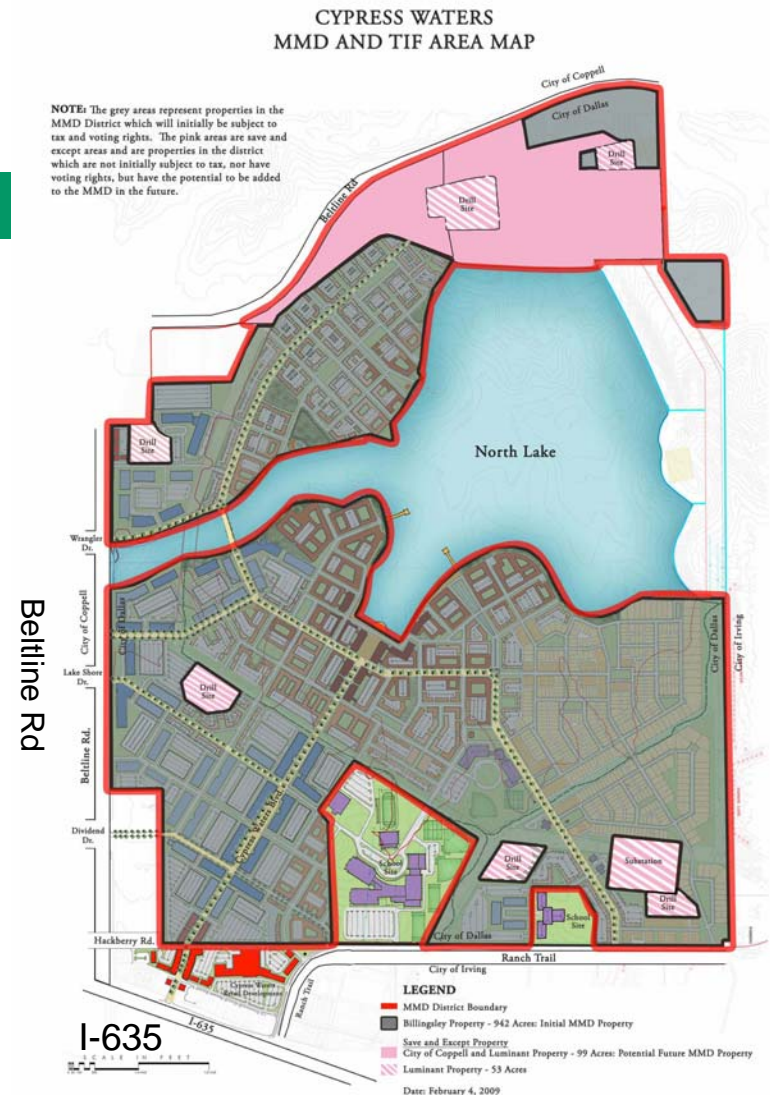
# Background

- ◆ Municipal management districts (MMDs) are:
  - Self-governed, political subdivisions of the State of Texas created by the State pursuant to Chapter 375 of the Texas Local Government Code.
  - MMDs have the power to levy taxes, assessments and fees against property owners in the district, see appendix.
  - MMD ad valorem taxes must be approved by a majority of eligible voters in the MMD.
- ◆ City control and oversight of the MMDs will be through the operating and development agreements to be approved by City Council.



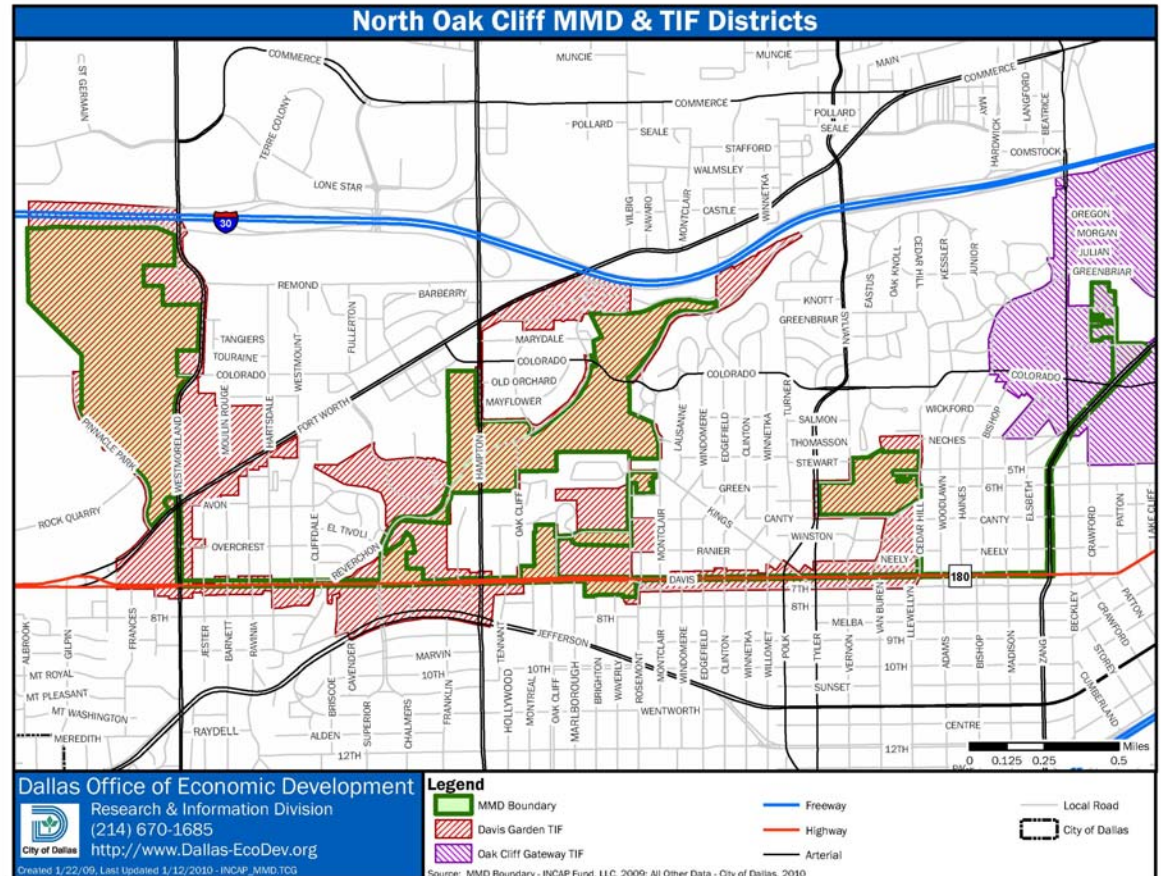
# Background: Cypress Waters MMD Map

- 942 acres
- Currently vacant land
- One owner – Billingsley Company
- Ultimate development:
  - 10,000 resid. units
  - 4 million sf office
  - 150,000 sf retail
- TIF proposal pending



# Background: North Oak Cliff MMD Map

- 313 acres
- Redevelopment sites primarily located in the Davis Garden and Oak Cliff Gateway TIF districts.
- One majority owner – INCAP
- Ultimate development:
  - Urban Campus: 5,800 units, 435,000 sf retail, 934,000 sf office/medical
  - Redevelopment of Davis Garden district approx. 2,700 units and upgraded retail



# Background: Trinity West MMD Map

- 342 acres
- Major land owner – West Dallas Investments
- Partially in Fort Worth Avenue TIF
- Development in the planning stages



# City Oversight of MMDs

- ◆ The statute for each MMD requires that a development and operating agreement between the district and City be negotiated and executed after the district's board is organized but before the MMD undertakes any projects, issues bonds, imposes taxes, levies assessments or fees, or borrows money.
- ◆ **Agreements** are not effective until the terms and execution are **approved by the MMD board and City Council resolution.**
- ◆ Any TIF district support, Chapter 380 grants or other City subsidies will require City Council approval.



# City Oversight of MMDs Continued

- ◆ The MMD Development and Operating Agreements will include plans, rules and limitations for:
  - ✓ The exercise of powers including the organization, development, and operations of the district.
  - ✓ The selection and description of improvement projects along with ownership, operations, and maintenance of those projects
  - ✓ Terms and conditions for financing those improvements
  - ✓ Amounts, methods, and timing of reimbursement to the city for costs and expenses, if any, incurred by the city with respect to the development and operation of the district and the financing of improvement projects by the district

# City Oversight of MMDs Continued

- ◆ In the MMD agreements, the City may consider policy considerations similar to those in TIF Districts such as:
  - ✓ The City's Business Development and Inclusion (BID) Plan goals for hiring Minority and Women-Owned Enterprise (M/WBE) firms.
  - ✓ Urban design guidelines for improvements.
  - ✓ Enhancement of parks, trails, and open space.

# MMD Board of Directors

- ◆ The Board structure for each MMD includes three City employee positions (an assistant city manager, chief financial officer, and director of the Office of Economic Development).
- ◆ Qualifications for other 6 Board positions are outlined in detail in the Appendix and generally require that the director: (1) live in the district or within 2 miles of the district; or (2) own property in the district or own an interest in an entity that owns property in the district or be an agent, employee or tenant of such an entity.

# MMD Board of Directors Continued

- ◆ All three MMD statutes **subject the MMD Board members to disclosure and abstention requirements** under Section 171.004 of the **Local Govt. Code**.
- ◆ **If** a MMD Board member has **substantial interest** in a **business entity** or in **real property** of the district, the MMD Board member **must disclose** such interest **and abstain** from participation in the matter.
- ◆ **But** if a majority of the MMD Board members are required to disclose and do disclose, then those MMD Board members are not required to abstain from participation in the matter.

# MMD Boards – Proposed Code Amendment

- ◆ Currently, the City's Chapter 12A Code of Ethics applies to MMD Board of Directors and would prohibit MMD Board members from having a financial interest (direct or indirect) in any contracts with the City.
- ◆ Since the provisions in Chapter 12A will prevent any stakeholders from serving on the MMD board (i.e. property owners and citizens or their family members that have City contracts even if unrelated to the MMD), City staff is seeking an **exemption of MMD Board members from the City's Code of Ethics.**



# MMD Boards – Proposed Code Amendment Continued

- ◆ Exempting MMD Board members from the City's Code of Ethics would allow MMD stakeholders to serve on the MMD Board and to negotiate operating and development agreements with the City.
- ◆ Disclosure requirements for all substantial interests in real property or business entities concerning the MMD per Section 171.004 of the Local Government Code would remain in place.
- ◆ The primary mechanism for oversight and control of the MMD will be the operating and development agreement.
- ◆ If TIF funds are committed, the TIF board and Council would need to approve those commitments and TIF board members would still be still subject to the City's code of ethics.



# Next Steps

- ◆ With the Committee's approval, staff will prepare an amendment to Chapter 12A to exclude MMD boards of directors from the City's Code of Ethics for City Council consideration on January 27, 2010.
- ◆ Appointment of MMD board members by Council.
- ◆ Negotiation and approval of operating and development agreements by MMD Board and Council.
- ◆ Correct discrepancy on petition requirements for ad valorem elections in the operating and development agreements.

# ◆ Appendices

# Council Resolutions – February 2009

- ✓ City Council resolutions declaring the support and consent to create the three MMDs are shown on the following pages.

# Cypress Waters MMD AIS/Resolution

090458

090458

REVISED ADDENDUM ITEM # 7

**KEY FOCUS AREA:** Economic Vibrancy  
**AGENDA DATE:** February 11, 2009  
**COUNCIL DISTRICT(S):** 12  
**DEPARTMENT:** Office of Economic Development  
**CMO:** A. C. Gonzalez, 671-8925  
**MAPSCO:** 11A B-D, 11A F-H, 11A K-M & 11A P-R

## SUBJECT

A resolution declaring the City of Dallas' support of and consent to the creation of the Cypress Waters Management District (Cypress Waters MMD) subject to certain limitations in the creation of, and exercise of powers by, the Cypress Waters MMD to promote the development and redevelopment of the area - Financing: No cost consideration to the City

## BACKGROUND

Approval of this item allows the State of Texas to create the Cypress Waters Management District, a municipal management district formed under Chapter 375 of the Texas Local Government Code. This request was originated by a major property owner, Billingsley, for the 942-acre site as a means of providing additional financing for infrastructure improvements in the area.

Municipal Management Districts (MMD) are self-governed, political subdivisions of the State of Texas. MMDs have the power to levy taxes, assessments and impact fees to property owners in the district. In addition, MMDs can supply additional services that are supplemental or complementary to regular municipal services. Real property taxes must be approved by a majority of eligible voters in the MMD.

MMDs may issue bonds that are not considered municipal debt and does not impact City of Dallas bonding capacity. This financing tool has been used in other cities, especially in conjunction with Tax Increment Financing Districts.

This proposal was briefed to the Economic Development Committee on January 20, 2009, January 27, 2009 and February 2, 2009. Based on this discussion, City support of the creation of this MMD is subject to several limitations described below:

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.

## BACKGROUND (Continued)

- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by ~~owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and either owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.~~
- C. That City Council approval by resolution shall be obtained for:
1. Any commitments of Chapter 380 subsidies on a project by project basis.
  2. The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, ~~nominal~~ note amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.
  3. The appointment of all District directors with the exception of the initial directors.
- D. Waterworks and sanitary sewer improvements may be undertaken by the district within the boundaries of the district, subject to the following conditions:
1. The City requests that the waterworks or sanitary sewer improvements be funded by the District.
  2. The City maintains exclusive power to construct, own, operate and maintain the improvements.
  3. The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.
- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.
- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.

Agenda Date 02/11/2009 - page 2

# Cypress Waters MMD AIS/Resolution

090458

COUNCIL CHAMBER

090458  
February 11, 2009

## BACKGROUND (Continued)

- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. ~~The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.~~
- L. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

Approval of this item creates another financing tool to enhance redevelopment possibilities in the Cypress Waters area.

## ESTIMATED SCHEDULE OF PROJECT

Legislation Filed March 2009  
Legislation Approved May 2009

## PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 20, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On January 27, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On February 2, 2009, the Economic Development Committee was briefed on the Municipal Management Districts

## FISCAL INFORMATION

No cost consideration to the City

## MAP(S)

Attached.

**WHEREAS**, the City of Dallas has received a request from property owners in the Cypress Waters area as set forth in **Exhibit A** attached hereto that the City consent to the creation of a municipal management district to facilitate the economic development and redevelopment of the area; and

**WHEREAS**, the property owners in the Cypress Waters area have represented to the City that the area is in need of infrastructure improvements to assist the City with the development and redevelopment of the area; and

**WHEREAS**, the creation of a municipal management district can assist with that development and redevelopment by providing a mechanism for the property owners within the district to finance public improvements in the area; and

**WHEREAS**, the City and the property owners have agreed to certain limitations in the creation of, and exercise of powers by, the municipal management district to promote the development and redevelopment of the area certain of such limitations as set forth herein and in the attached draft legislation creating the municipal management district.

**NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**Section 1.** That the City Council hereby declares its support of the creation of the CYPRESS WATERS MANAGEMENT DISTRICT (the "District") by the Legislature of the State of Texas in the current legislative session; provided that the legislation contains the minimum requirements outlined in Section 3 below and such legislation does not materially differ from the legislation attached hereto as **Exhibit A** which is incorporated herein by this reference and made a part hereof for all purposes.

**Section 2.** That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this resolution and the subject matter thereof has been disclosed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 3.** That among the limitations that the City of Dallas and the property owners have agreed to and that are to be included in the legislation creating the municipal management district for the Cypress Waters area are provisions that mandate and require the following:

# Cypress Waters MMD AIS/Resolution

COUNCIL CHAMBER  
090458  
February 11, 2009

COUNCIL CHAMBER  
090458  
February 11, 2009

## Section 3. (Continued)

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.
- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by ~~owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and either: owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.~~
- C. That City Council approval by resolution shall be obtained for:
1. Any commitments of Chapter 380 subsidies on a project by project basis.
  2. The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, ~~notional note amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.~~
  3. The appointment of all District directors with the exception of the initial directors.
- D. Waterworks and sanitary sewer improvements may be undertaken by the district within the boundaries of the district, subject to the following conditions:
1. The City requests that the waterworks or sanitary sewer improvements be funded by the District.
  2. The City maintains exclusive power to construct, own, operate and maintain the improvements.
  3. The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.

## Section 3. (Continued)

- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.
- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.
- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

**Section 4.** That should legislation not be enacted in the current legislative session to create the District, or should such legislation not contain the minimum requirements outlined in Section 3 above, the support of the City Council as stated in this resolution shall ~~expire~~ terminate.

**Section 5.** That the property owner shall notify the Dallas City Council of all changes made by the Legislature of the State of Texas during the current legislative session to the proposed legislation attached herein.

**Section 6.** That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

Distribution: Office of Economic Development, Tenna Kirk, 5CS  
Office of Economic Development, Karl Stundins, 2CN  
City Attorney's Office - Barbara Martinez

APPROVED BY  
CITY COUNCIL

FEB 11 2009

*Deborah Dickstein*  
City Secretary

# North Oak Cliff MMD AIS/Resolution

090459

REVISED ADDENDUM ITEM # 8

KEY FOCUS AREA: Economic Vibrancy  
AGENDA DATE: February 11, 2009  
COUNCIL DISTRICT(S): 1, 3  
DEPARTMENT: Office of Economic Development  
CMO: A. C. Gonzalez, 671-8925  
MAPSCO: 43 W-Z, 44 T-V, 44 W-Z, 53 B-D & 54 A-C

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CITY SECRETARY  
DALLAS, TEXAS

090459

## BACKGROUND (Continued)

- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by ~~owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and either owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.~~
- C. That City Council approval by resolution shall be obtained for:
- Any commitments of Chapter 380 subsidies on a project by project basis.
  - The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, ~~net~~ net amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.
  - The appointment of all District directors with the exception of the initial directors.
- D. Waterworks and sanitary sewer improvements may be undertaken by the district within the boundaries of the district, subject to the following conditions:
- The City requests that the waterworks or sanitary sewer improvements be funded by the District.
  - The City maintains exclusive power to construct, own, operate and maintain the improvements.
  - The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.
- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.
- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.

## SUBJECT

A resolution declaring the City of Dallas' support of and consent to the creation of the North Oak Cliff Management District (North Oak Cliff MMD) subject to certain limitations in the creation of, and exercise of powers by, the North Oak Cliff MMD to promote the development and redevelopment of the area - Financing: No cost consideration to the City

## BACKGROUND

Approval of this item allows the State of Texas to create the North Oak Cliff Management District, a municipal management district formed under Chapter 375 of the Texas Local Government Code. This request was originated by a major property owner, INCAP, for the 313-acre site as a means of providing additional financing for infrastructure improvements in the area.

Municipal Management Districts (MMD) are self-governed, political subdivisions of the State of Texas. MMDs have the power to levy taxes, assessments and impact fees to property owners in the district. In addition, MMDs can supply additional services that are supplemental or complementary to regular municipal services. Real property taxes must be approved by a majority of eligible voters in the MMD.

MMDs may issue bonds that are not considered municipal debt and does not impact City of Dallas bonding capacity. This financing tool has been used in other cities, especially in conjunction with Tax Increment Financing Districts.

This proposal was briefed to the Economic Development Committee on January 20, 2009, January 27, 2009 and February 2, 2009. Based on this discussion, City support of the creation of this MMD is subject to several limitations described below:

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.

Agenda Date 02/11/2009 - page 2



# North Oak Cliff MMD AIS/Resolution

## BACKGROUND (Continued)

090459

- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. ~~The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.~~
- J. The District board may not impose taxes, assessments or fees or any other requirement for payment, construction, alteration, or dedication on single-family detached residential property, condominium residential units, duplexes, triplexes, and quadraplexes.
- J. ~~The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.~~
- K. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

Approval of this item creates another financing tool to enhance redevelopment possibilities in the North Oak Cliff area.

## ESTIMATED SCHEDULE OF PROJECT

Legislation Filed March 2009  
Legislation Approved May 2009

## PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 20, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On January 27, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On February 2, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

## FISCAL INFORMATION

No cost consideration to the City

## MAP(S)

Attached.

Agenda Date 02/11/2009 - page 3

RECEIVED

2009 FEB 20 PM 2:00

COUNCIL CHAMBER

090459

February 11, 2009

**WHEREAS**, the City of Dallas has received a request from property owners in the North Oak Cliff area as set forth in ~~the~~ Exhibit A attached hereto that the City consent to the creation of a municipal management district to facilitate the economic development and redevelopment of the area; and

**WHEREAS**, the property owners in the North Oak Cliff area have represented to the City that the area is in need of infrastructure improvements to assist the City with the development and redevelopment of the area; and

**WHEREAS**, the creation of a municipal management district can assist with that development and redevelopment by providing a mechanism for the property owners within the district to finance public improvements in the area; and

**WHEREAS**, the City and the property owners have agreed to certain limitations in the creation of, and exercise of powers by, the municipal management district to promote the development and redevelopment of the area certain of such limitations as set forth herein and in the attached draft legislation creating the municipal management district.

**NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**Section 1.** That the City Council hereby declares its support of the creation of the NORTH OAK CLIFF MANAGEMENT DISTRICT (the "District") by the Legislature of the State of Texas in the current legislative session; provided that the legislation contains the minimum requirements outlined in Section 3 below and such legislation does not materially differ from the legislation attached hereto as **Exhibit A** which is incorporated herein by this reference and made a part hereof for all purposes.

**Section 2.** That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this resolution and the subject matter thereof has been disclosed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 3.** That among the limitations that the City of Dallas and the property owners have agreed to and that are to be included in the legislation creating the municipal management district for the North Oak Cliff area are provisions that mandate and require the following:



# North Oak Cliff MMD AIS/Resolution

COUNCIL CHAMBER

090459  
February 11, 2009

## Section 3. (Continued)

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.
- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by ~~owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and~~ record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and either owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.
- C. That City Council approval by resolution shall be obtained for:
1. Any commitments of Chapter 380 subsidies on a project by project basis.
  2. The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, ~~notional~~ amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.
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  3. The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.

COUNCIL CHAMBER

090459  
February 11, 2009

## Section 3. (Continued)

- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.
- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.
- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. the District board may not impose taxes, assessments or fees or any other requirement for payment, construction, alteration, or dedication on single-family detached residential property, condominium residential units, duplexes, triplexes, and quadraplexes.
- J. The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.
- K. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

Approval of this item creates another financing tool to enhance redevelopment possibilities in the North Oak Cliff area.

**Section 4.** That should legislation not be enacted in the current legislative session to create the District, or should such legislation not contain the minimum requirements outlined in Section 3 above, the support of the City Council as stated in this resolution shall expire terminate.

**Section 5.** That the property owner shall notify the Dallas City Council of all changes made by the Legislature of the State of Texas during the current legislative session to the proposed legislation attached herein.

**Section 6.** That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

Distribution: Office of Economic Development, Tenna Kirk, 5CS  
Office of Economic Development, Karl Stundins, 2CN  
City Attorney's Office - Barbara Martinez

APPROVED BY  
CITY COUNCIL

FEB 11 2009

*Rebecca Williams*  
City Secretary



# Trinity River West MMD AIS/Resolution

090460

REVISED ADDENDUM ITEM # 9

KEY FOCUS AREA: Economic Vibrancy  
AGENDA DATE: February 11, 2009  
COUNCIL DISTRICT(S): 6  
DEPARTMENT: Office of Economic Development  
CMO: A. C. Gonzalez, 671-8925  
MAPSCO: 44 Q

2009 FEB 20 PM 1:58  
RECEIVED  
CITY SECRETARY  
DALLAS, TEXAS

## SUBJECT

A resolution declaring the City of Dallas' support of and consent to the creation of the Trinity River West Management District (Trinity River West MMD) subject to certain limitations in the creation of, and exercise of powers by, the Trinity River West MMD to promote the development and redevelopment of the area - Financing: No cost consideration to the City

## BACKGROUND

Approval of this item allows the State of Texas to create the Trinity River West Management District, a municipal management district formed under Chapter 375 of the Texas Local Government Code. This request was originated by a major property owner for the 342-acre site as a means of providing additional financing for infrastructure improvements in the area.

Municipal Management Districts (MMD) are self-governed, political subdivisions of the State of Texas. MMDs have the power to levy taxes, assessments and impact fees to property owners in the district. In addition, MMDs can supply additional services that are supplemental or complementary to regular municipal services. Real property taxes must be approved by a majority of eligible voters in the MMD.

MMDs may issue bonds that are not considered municipal debt and does not impact City of Dallas bonding capacity. This financing tool has been used in other cities, especially in conjunction with Tax Increment Financing Districts.

This proposal was briefed to the Economic Development Committee on January 20, 2009, January 27, 2009 and February 2, 2009. Based on this discussion, City support of the creation of this MMD is subject to several limitations described below:

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.

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## BACKGROUND (Continued)

- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and either owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.
- C. That City Council approval by resolution shall be obtained for:
  1. Any commitments of Chapter 380 subsidies on a project by project basis.
  2. The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, notional note amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.
  3. The appointment of all District directors with the exception of the initial directors.
- D. Waterworks and sanitary sewer improvements may be undertaken by the district within the boundaries of the district, subject to the following conditions:
  1. The City requests that the waterworks or sanitary sewer improvements be funded by the District.
  2. The City maintains exclusive power to construct, own, operate and maintain the improvements.
  3. The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.
- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.



# Trinity River West MMD AIS/Resolution

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## BACKGROUND (Continued)

- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.
- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. ~~The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.~~
- J. the District board may not impose taxes, assessments or fees or any other requirement for payment, construction, alteration, or dedication on single-family detached residential property, condominium residential units, duplexes, triplexes, and quadraplexes.
- J. The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.
- K. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

The approval of this item creates another financing tool to enhance redevelopment possibilities in the Trinity River West area.

## ESTIMATED SCHEDULE OF PROJECT

Legislation Filed	March 2009
Legislation Approved	May 2009

## PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 20, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On January 27, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

On February 2, 2009, the Economic Development Committee was briefed on the Municipal Management Districts.

## FISCAL INFORMATION

No cost consideration to the City

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COUNCIL CHAMBER

090460  
February 11, 2009

WHEREAS, the City of Dallas has received a request from property owners in the Trinity River West area as set forth in Exhibit A attached hereto that the City consent to the creation of a municipal management district to facilitate the economic development and redevelopment of the area; and

WHEREAS, the property owners in the Trinity River West area have represented to the City that the area is in need of infrastructure improvements to assist the City with the development and redevelopment of the area; and

WHEREAS, the creation of a municipal management district can assist with that development and redevelopment by providing a mechanism for the property owners within the district to finance public improvements in the area; and

WHEREAS, the City and the property owners have agreed to certain limitations in the creation of, and exercise of powers by, the municipal management district to promote the development and redevelopment of the area certain of such limitations as set forth herein and in the attached draft legislation creating the municipal management district.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

**Section 1.** That the City Council hereby declares its support of the creation of the TRINITY RIVER WEST MANAGEMENT DISTRICT (the "District") by the Legislature of the State of Texas in the current legislative session; provided that the legislation contains the minimum requirements outlined in Section 3 below and such legislation does not materially differ from the legislation attached hereto as Exhibit A which is incorporated herein by this reference and made a part hereof for all purposes.

**Section 2.** That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this resolution and the subject matter thereof has been disclosed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 3.** That among the limitations that the City of Dallas and the property owners have agreed to and that are to be included in the legislation creating the municipal management district for the Trinity River West area are provisions that mandate and require the following:

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# Trinity River West MMD AIS/Resolution

COUNCIL CHAMBER

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February 11, 2009

## Section 3. (Continued)

- A. The negotiation of a comprehensive development agreement for the District that provides a comprehensive development plan for public infrastructure and including the financing of the same.
- B. Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by ~~owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District and~~ record owners of taxable real property who constitute more than sixty five percent (65%) of all record owners of taxable real property and ~~either owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.~~
- C. That City Council approval by resolution shall be obtained for:
  1. Any commitments of Chapter 380 subsidies on a project by project basis.
  2. The issuance of bonds, notes, credit agreements or other obligations, including the terms of such issuance, the principal amount, ~~notional note~~ amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuances. Such approval shall be obtained first in general terms prior to the preparation of the preliminary official statements or loan closing documents and second, the final terms and conditions relating to such issuance shall be approved by the City Council.
  3. The appointment of all District directors with the exception of the initial directors.
- D. Waterworks and sanitary sewer improvements may be undertaken by the district within the boundaries of the district, subject to the following conditions:
  1. The City requests that the waterworks or sanitary sewer improvements be funded by the District.
  2. The City maintains exclusive power to construct, own, operate and maintain the improvements.
  3. The comprehensive development agreement has been executed and City Council has approved the issuance of any debt obligations as a condition of such improvements being funded by the District.

COUNCIL CHAMBER

090460  
February 11, 2009

## Section 3. (Continued)

- E. The presentation to the City Council of an annual report of audited District financing documents.
- F. A plan to maintain infrastructure development by the District.
- G. No property may be removed from the District unless or until the District is terminated or all obligations of the District have been paid in full.
- H. The City of Dallas shall not be obligated to provide any additional capital improvements or expenditures in the area which the City Council has not already approved including assessments or fees.
- I. ~~The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.~~
- J. the District board may not impose taxes, assessments or fees or any other requirement for payment, construction, alteration, or dedication on single-family detached residential property, condominium residential units, duplexes, triplexes, and quadraplexes.
- J. The creation of the District shall be recorded in the official real property records of Dallas County, Texas and separately and clearly disclosed in the closing documents for the sale of any property in the District.
- K. The district shall be governed by an initial board of nine directors, to serve a term that expires six months after the district is created. Replacement directors shall be appointed by the City Council.

Approval of this item creates another financing tool to enhance redevelopment possibilities in the Trinity River West area.

**Section 4.** That should legislation not be enacted in the current legislative session to create the District, or should such legislation not contain the minimum requirements outlined in Section 3 above, the support of the City Council as stated in this resolution shall expire terminate.

**Section 5.** That the property owner shall notify the Dallas City Council of all changes made by the Legislature of the State of Texas during the current legislative session to the proposed legislation attached herein.



# Trinity River West MMD AIS/Resolution

COUNCIL CHAMBER

090460  
February 11, 2009

Section 6. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

Distribution: Office of Economic Development, Tenna Kirk, 5CS  
Office of Economic Development, Karl Stundins, 2CN  
City Attorney's Office - Barbara Martinez

APPROVED BY  
CITY COUNCIL

FEB 11 2009

*Richard Wittman*  
City Secretary



# Difference in petition requirement: City resolution vs. statute

- ◆ The February 2009 Council resolutions stated that:
  - Prior to initiating any action to further develop in the area through the use of the proposed municipal management district that any tax or fee or assessment levied by the District and any additions of property to the District must be approved by record owners of taxable real property and either: owners of taxable real property representing more than sixty five percent (65%) of the appraised value of taxable real property in the District or owners who constitute more than sixty five percent (65%) of the area of all taxable real property in the District.
- ◆ Statute language regarding an ad valorem election is less stringent but the City may revert back to its original provisions in the MMD operating and development agreements.

# Difference in petition requirement: City resolution vs. statute continued

- ◆ The statutes provide that:

The district may not impose an ad valorem tax to pay for an improvement project under this chapter unless the imposition is approved by voters of the district at an election held for that purpose. The board may call an election to approve the imposition of an ad valorem tax to pay for an improvement project under this chapter only if the board receives a petition requesting the election signed by:

1. More than 65% of the record owners of real property in the district subject to taxation; or
2. Owners representing more than 65% of the appraised value of real property in the district subject to taxation.

# MMD Board Structure – Cypress Waters

- ◆ The board may consist of nine members with appointees being at least 18 years of age and meeting one of these qualifications:
  1. A resident of the district who is also a registered voter of the district;
  2. An owner of property in the district;
  3. An owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;
  4. An owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district;
  5. An agent, employee, or tenant of a person covered by 2, 3, or 4 above; or
  6. An initial director (***terms have now expired***).

# MMD Board Structure – Cypress Waters Continued

- ◆ The initial directors in the legislation included:
  - Place 1 – Lucy Billingsley
  - Place 2 – Mario Canizares
  - Place 3 – Sid Grant
  - Place 4 – Joel Overton, Jr.
  - Place 5 – Henry Billingsley
  - Place 6 – Lucilo Pena
  - Place 7 – A.C. Gonzales (Assist. City Manager)
  - Place 8 – David Cook (City Chief Financial Officer)
  - Place 9 – Karl Zavitkovsky (Director, City Office of Economic Development)
- ◆ **A person may not be appointed to the board by the City if the appointment would result in fewer than three of the directors being residents of the city *and* meeting qualifications related to ownership interest under 2, 3, 4, 5, or 6 (outlined on page 20).**
- ◆ Terms of directors appointed to succeed the initial directors for places 1-4 expire on July 1, 2011 and for places 5-9 on July 1, 2013.

# MMD Board Structure – North Oak Cliff

- ◆ The board may consist of nine members composed of:
  - Six directors appointed by the City Council meeting qualifications and either initiated by property owner petition or directly by the City;
  - One assistant city manager of the city, appointed by the city; manager
  - The chief financial officer of the City; and
  - The economic development director of the City
- ◆ There were no initial directors named in the legislation for the North Oak Cliff MMD.

# MMD Board Structure – North Oak Cliff Continued

- ◆ To be qualified for appointment a director must be at least 18 years of age and meet one of these qualifications:
  1. A resident of the district who is also a registered voter of the district or a registered voter who lives within a two-mile radius of the district;
  2. An owner of property in the district;
  3. An owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
  4. An owner of a beneficial interest in a trust that owns property in the district; or
  5. An agent, employee, or tenant of a person covered by 2, 3, or 4 above.
- ◆ Of the Initial directors terms for places 1-4 expire on July 1, 2011 and for places 5-9 on July 1, 2013.

# MMD Board Structure – North Oak Cliff Continued

- ◆ A person may not be appointed to the board if the appointment would result in fewer than:
  1. Four of the directors being residents of the City *and* meeting the meeting qualifications related to ownership interest under 2, 3, 4, 5, (outlined on page 23); and
  2. Two of the directors being a resident of the district who is also a registered voter of the district or a registered voter who lives within a two-mile radius of the district.

# MMD Board Structure – Trinity River West

- ◆ The board may consist of nine members composed of:
  - Six directors appointed by the City Council meeting qualifications; and
  - Three City employees appointed by the City.
- ◆ There were no initial directors named in the legislation for the North Oak Cliff MMD. The legislation allowed property owners to submit a petition by September 1, 2009 requesting certain persons be appointed for initial director positions but that did not occur.

# MMD Board Structure – Trinity River West Continued

- ◆ To be qualified for appointment a director must be at least 18 years of age and meet one of these qualifications:
  1. A resident of the district who is also a registered voter of the district or a registered voter who lives within a two-mile radius of the district;
  2. An owner of property in the district;
  3. An owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
  4. An owner of a beneficial interest in a trust that owns property in the district; or
  5. An agent, employee, or tenant of a person covered by 2, 3, or 4 above.
- ◆ Of the Initial directors terms for places 1-4 expire on July 1, 2011 and for places 5-9 on July 1, 2013.

# MMD Board Structure – Trinity River West Continued

- ◆ A person may not be appointed to the board if the appointment would result in fewer than:
  1. Four of the directors being residents of the City *and* meeting the meeting qualifications related to ownership interest under 2, 3, 4, 5, (outlined on page 26); and
  2. Two of the directors being a resident of the district who is also a registered voter of the district or a registered voter who lives within a two-mile radius of the district.