

Report of City of Conroe Annexation Meeting

On August 7, 2007, I represented Cimarron Country at an informational meeting on City of Conroe annexation plans at the offices of Conroe City Attorney, Marcus Winberry. The President of the East 1488 Community Association requested the meeting and representatives of several neighborhoods in our area attended it. The issue was brought to our attention by recent articles in the Houston Chronicle on Conroe's possible annexation intentions along with that city's ongoing annexation activity along the far eastern end of FM 1488. Mr. Winberry spoke with our group in general terms about the mechanics of annexation, the implications thereof and theoretical annexation scenarios that could affect commercial properties and residential neighborhoods along the FM 1488 corridor. In reading this report please understand that Mr. Winberry is a lawyer with seventeen years tenure as Conroe's attorney and plenty of experience with the issue of annexation. He was necessarily equivocal in his remarks since there are no current plans to extend the city's annexation boundaries. However, he did provide us with a hint of Conroe's general annexation expectations and what the future may hold. What I will present here are the impressions, opinions and conclusions that I took away from the meeting primarily as they apply to Cimarron Country. They are mine and mine alone; others may disagree. We must all remain aware that we live in a rapidly changing demographic, economic and sociopolitical environment; what seems plausible today with regard to annexation scenarios and timeframes may or may not actually evolve.

Background. Texas law provides that cities can establish extra-territorial jurisdictions (ETJs) beyond their existing borders. At their discretion, cities have the exclusive right to annex territory within their ETJs but in doing so, they must comply with strict statutory procedures (more on that later). The size of a specific city's allowable ETJ depends upon its population and it may be expanded as that city's population grows. An important population threshold is 50,000; since the City of Conroe's current population is just below 50,000 and growing, it is inevitable that its current ETJ will expand. Examples of the annexation procedure are the City of Houston's annexation of Kingwood and its attempted annexation of The Woodlands. In the former, all statutory requirements were satisfied and annexation was accomplished; in the latter, negotiations were conducted during the statutory process and annexation was averted. In both instances there was, under Texas law, a lengthy process of public notices, hearings, disclosures and negotiation. For subdivisions with 100 homes or more, this process, by law, lasts a minimum of three years. Closer to home, the City of Conroe had intentions of annexing the River Plantation subdivision. Toward the end of the three-year process, negotiations broke down with that subdivision's water supplier, Aqua Texas, and the city decided not to proceed with the annexation.

General Implications of Annexation. If you are wondering why a city would want to annex territory in the first place, the answer is fairly straightforward: money. Annexation increases the size of a city's tax base both commercial and residential and therefore generates increased revenue for that city. Sales taxes, property taxes, and fees are what generate revenue and are the principal impetus behind annexation. In return for the privilege of collecting taxes and fees, a city must provide newly annexed territory with

services. It must provide full municipal services within 2 1/2 years of the effective date of the annexation. Commercial developments, businesses and affluent residential subdivisions make particularly attractive annexation targets. Commercial enterprises generate substantial sales taxes, business taxes and fees for city coffers. Affluent residential neighborhoods usually consist of high-value homes in a low-density setting. When compared to more modest high-density subdivisions, they require a disproportionately lower volume of services in relation to the taxes that are collected. By law, those services must be at least equal to the level of services provided in the area before annexation. Furthermore, those services must be no less than the level of service provided within the rest of the city. Full municipal services would normally include police, fire, road maintenance, parks, solid waste pickup, sewer and water. But there is a caveat here and it's an important one: according to a document made available by Mr. Winberry, "variations in the level of services provided may be justified if based on differences in topography, land use and population density".

Specific Implications of Annexation. In my view the "variations in the level of services" clause compounds the issue and makes it even more speculative as to the potential annexation implications for subdivisions like Cimarron Country. We have septic systems, a private water supplier, commercial trash pickup, supplemental law enforcement, etc. Just what would we be getting for our tax dollars? Historically, The City of Conroe does not provide sewer service unless it also provides water service. In the case of the aborted River Plantation annexation, the city chose not to buy out that subdivision's water supplier that, coincidentally, is Aqua Texas (Cimarron Country's supplier). Mr. Winberry stated that it would have been too expensive for the city to purchase the water system at the Aqua Texas asking price and upgrade it to meet Conroe's standards, i.e. fire hydrants and six-inch water lines versus four-inch lines. Does this mean a similar situation would exist for Cimarron Country? I don't know and I don't think it is something that is knowable at this point. In the event of annexation, most services such as road maintenance and drainage that are currently provided by Montgomery County would be taken over by the City of Conroe but I don't know exactly which would and which wouldn't. How would our Montgomery County taxes be affected? Again, I don't know and I'm not sure if the specifics of these issues are knowable until all details are ironed out in some future annexation process. Right now, the City of Conroe's residential property tax rate is \$0.43 per \$100 valuation, a rate that is, of course, subject to change (and it probably won't go down, folks). This equates to \$430 annually per \$100,000 valuation. That rate could potentially be reduced by any amount that we currently pay to an Emergency Services District (ESD) such as the Montgomery County Hospital District (MCHD) or an ESD relating to our Volunteer Fire Departments. Again, I'm a little short on details and again, I'm not sure if our potential City of Conroe tax rate is even knowable at the present time. Here's what I do know for sure and it's not much: annexation may not artificially divide a subdivision; that is, a city may not annex part of a subdivision and not another part. Annexation does not affect school districts; Cimarron Country children would continue to attend Magnolia ISD schools and we would continue to pay Magnolia ISD taxes. Beyond that, the details of any annexation and their impact on Cimarron Country would have to be solidified during

the aforementioned three-year process. Two old sayings come to mind that I think apply here: first, “the devil is in the details”; second, “everything is negotiable”.

Opinion and Conclusions. I believe that Cimarron Country will eventually have to deal with potential annexation by the City of Conroe. In the words of the great singer/songwriter of my generation, Mr. Bob Dylan, ‘you don’t need a weatherman to know which way the wind blows’. It is true that the City has not yet formally adopted any annexation plan for additional territory along the FM 1488 corridor. However, according to Mr. Winberry, “it is the City's general expectation that all territory located within its ETJ will sometime in the future be annexed to the city." Cimarron Country is among numerous subdivisions along FM 1488 that are within the City of Conroe’s ETJ. Most of those subdivisions consist of more than 100 homes. Due to the rapid economic development along the FM 1488 corridor and the proliferation of relatively low-density subdivisions containing high-value homes, our region is a desirable target for annexation. As for timeframes, Mr. Winberry was careful to state that it is impossible to project definitive annexation timetables because of the dynamic economic and political environments in which annexations occur. However, he went on to speculate that the process could take "20-100 years" (his exact words) for the FM-1488 corridor. There are stringent statutory requirements that the City of Conroe must meet in order to annex territory. For example, they may annex generally only ten-percent of available territory in any given year and all annexation must be contiguous; moreover there is that arduous and complex three-year process that must be followed anytime proposed annexation encompasses a subdivision comprised of 100 homes or more. Here are the facts leading up to my final conclusion: first, our subdivision has in excess of 100 homes; second, annexation will occur generally on a east-to-west axis; third, Cimarron Country is on the far southwestern boundary of Conroe's ETJ; fourth (and perhaps most importantly) there are numerous subdivisions of more than 100 homes to our east along the FM 1488 corridor (remember the three-year process and that all annexation must be contiguous). I can only conclude that it is highly unlikely that we will be dealing with potential annexation in the near future. We would be among the last subdivisions to be annexed if, in fact, we were annexed at all. My personal opinion is that the City of Conroe will target the commercial developments occupying FM 1488 frontage in 1000-ft. strips before they set their sights on residential subdivisions. I will continue to monitor developments as they occur but I think we are talking certainly about years and possibly about decades in regard to the possibility of Cimarron Country annexation.

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