

## **Alternative 1: Current Structure**

Although inherently impractical because of the changes that will inevitably occur over time, this Alternative is presented as the base line for comparison of the Alternatives that follow.

### **Structure Overview**

Services are provided by multiple entities with no single point of authority. Current major service providers include: Montgomery County, which provides law enforcement and criminal justice services, social services, road and bridge maintenance, traffic management, emergency medical services (through the Montgomery County Hospital District), roadside drainage channel maintenance, library services, courts, and mosquito control; the Community Associations, which provide fire protection, emergency medical services, park and recreation services, deed restriction enforcement, solid waste collection and recycling, and neighborhood environmental and watch programs; the eleven municipal utility districts (MUD's), which provide retail water, wastewater and drainage services; the San Jacinto River Authority, which provides wholesale water supply and wastewater collection and treatment services and stormwater detention operations for the Bear Branch Reservoir System; The Woodlands Road Utility District (RUD), which finances and constructs major thoroughfare improvements; and Town Center Improvement District (TCID), which provides economic development, business stimulation and visitor services, as well as supplemental law enforcement funding and services, in the Town Center and its related impact area. In addition, The Woodlands Development Company (TWDC) takes responsibility for constructing much of the initial infrastructure and cost-shares in the development of new parks and amenities in areas currently under development. Other services are provided on an as-needed basis by mutual agreement with other private, non-profit and governmental entities.

### **Political Issues**

There are currently no major external political issues on the horizon should the community decide to “stay put.” Montgomery County appears willing to continue with current service provision and working relationships. The moratorium agreement between the City of Houston and the MUD's effectively prohibits annexation through 2014. The City of Conroe has already annexed much of the business and retail area of The Woodlands and a small part of the residential area of The Woodlands in its extra-territorial jurisdiction (ETJ), but has shown no interest in annexing additional residential areas in its ETJ within The Woodlands. There is movement from time to time in the Texas Legislature to restrict the powers of homeowner's associations and, possibly, weaken covenants in unincorporated communities.

### **Funding**

The Community Associations rely primarily on ad valorem based assessments and user fees to fund operations, with little ability to expand revenue sources. Montgomery County, the MUD's and the RUD also rely on ad valorem tax revenues as their main source of funding, resulting in The Woodlands having a relatively high consolidated property tax rates and assessments. The sales taxes and hotel occupancy taxes generated in the Town Center area fund the Town Center Improvement District operations and debt service. The incremental sales tax potential in the remainder of Town Center, and the sales tax and hotel tax potential of the business areas outside of Town Center are currently not being utilized by any local taxing agency.

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### **Advantages**

- By and large, the system currently works, and there is a high degree of cooperation among entities to provide services and manage across organizational boundaries.
- Many longer term residents and taxpayers are familiar with the system and its limitations.
- Each of the service agencies operates in a cost-effective manner, without much in the way of bureaucracy.
- Because there are nearly 100 elected officials serving on the governing bodies of the service agencies, public access to decision makers and responsiveness to citizen concerns are unusually high.
- Community surveys indicate a high level of satisfaction with service delivery.
- Current structure represents a “limited government” or “less government” approach.

### **Challenges**

- As population increases, an increase in the demand for public services, e.g., law enforcement, could be expected.
- To extend services to Harris County, additional MUD’s and/or associations may be required, and Harris County service relationships must be developed.
- There is no assurance that either county will or will have the legal ability to provide the level of services necessary for the community’s demographics and size.
- Planning, construction and funding assistance and expertise provided by the TWDC will diminish as completion of development is reached.
- Land use control over remaining development activities is limited.
- The current structure does not address annexation issues beyond 2014.
- Fragmentation of services will continue to be a source of some confusion to newcomers.
- Currently, assessment rates, tax rates and service charges among the several associations and MUD’s are not uniform.
- Not all common sources of governmental revenues, such as franchise taxes and unused sales taxes, are being utilized.
- No single entity having “governmental standing” represents The Woodlands.
- Further legislative constraints on community associations could weaken covenant enforcement.
- Currently, the existence of one predominantly resident-elected association, one less-than-majority-resident elected association and a commercial association that is solely represented by commercial interests is the source of dissatisfaction among some residents.
- Community association assessments are not fully deductible for federal income tax purposes and are not subject to a variety of homestead and similar exemptions.
- No single entity has complete authority for any emergency response.
- Structure is intensely dependent on volunteers who the community increasingly expects to function like city council members (charged with solving local problems) but who lack the budget and staff to be able to meet those expectations.

## **Alternative 2: Current Structure with Modifications/Special Districts**

### **Structure Overview**

This option would essentially maintain the current structure but anticipates the expansion of current governmental powers to address additional needs, possibly by the creation of additional special purpose districts, as has been done historically.

### **Political Issues**

The extent to which additional needs for services can be adequately met and financed will be dependent upon the ability of the community to create new governmental entities under existing law or to secure passage of special purpose legislation, as well as the continued cooperation of current service providers in the alteration/addition of current powers, funding sources and jurisdictional boundaries. The Texas Legislature periodically takes a critical view of special district legislation; however, the size, financial stability, reputation, unity of purpose, and unique character of The Woodlands, together with the strength of its legislative delegation, has historically allowed those constraints to be overcome.

### **Funding**

Except to the extent modified by new legislation or the creation of new governmental entities under existing law, the current funding sources would remain essentially unchanged.

### **Advantages**

- All of the advantages of the current structure would remain.
- Solutions to key service delivery issues could be “customized” to include only those services desired/needed.
- Expanded revenue capabilities could be added.
- Non-deductible, assessment funded functions could be transferred to ad valorem tax-funded services.
- An expanded use of sales tax could be added to spread the burden to non-property owners.
- Some consolidation of existing service providers could be accomplished

### **Challenges**

- Depending upon the extent to which modifications are made and consolidation is accomplished, all of the challenges for the Current Structure may remain to some degree.
- May require consent from the Cities of Houston and Conroe.
- Could be an obstacle to implementing another Alternative.

## **Alternative 3: Current Structure with District Elected Community Council**

### **Structure Overview**

This option entails unifying the three primary Community Associations in The Woodlands by creating an elected community council representing the entire community. The authority of the community council would be limited to those powers of the current Community Associations.

### **Political Issues**

External political issues should be minimal since this option requires no change in governmental structure or legal status. Internal political issues would surely arise, since dissolution or combining of current leadership bodies would change how decisions are made and by whom.

### **Funding**

- Funding for the community council would remain the same as in Alternatives 1 and 2.

### **Advantages**

- Accomplishes some level of consolidation and unification of leadership structure.
- Provides for a democratically elected community council.

### **Challenges**

- Similar to those in Alternatives 1 and 2.
- May be legally restricted by current covenants.
- May not be supportable/desirable for both business and residential associations.
- Does not effect a true change in governmental structure.

## **Alternative 4: Annexation**

### **Structure Overview**

Under existing state law, the Cities of Houston and Conroe have unilateral rights to annex the portions of The Woodlands within their respective ETJ's. Expiration of the moratorium agreement would permit Houston to annex as early as 2014. No moratorium agreement exists with the City of Conroe, which includes the Trade Center and Harper's Landing in its ETJ.

Under current annexation law, the annexing municipality is required to provide substantially the same services to the newly annexed area that are provided to the residents of the annexing city, and upon annexation, the MUD's would be dissolved and the annexing municipality would assume the assets and indebtedness of the MUD's and would be responsible for providing retail water, wastewater and drainage services. Many services currently provided by Montgomery County would then be provided by the annexing city. However, a decrease in the county's tax rate would be unlikely. The Woodlands Fire Department would likely be dissolved, with assets and personnel being acquired by the annexing city. Current law would not require the dissolution of TCID, the RUD or the Community Associations, but the role of the Community Associations

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would be greatly diminished. Some municipal services could be enhanced by the Community Associations through the collection of assessments.

### **Political Issues**

Texas has had a powerful municipal annexation law that permits large cities to expand by annexation without the consent of property owners and residents of the annexed area. Currently, Houston consists of approximately 650 square miles crossing several county boundaries. At the state level, annexation is periodically a sensitive political issue, but it is not possible to determine whether unilateral municipal annexation will be significantly curtailed in the future.

On the other hand, there is currently reason to believe that neither Houston nor Conroe are interested in annexing large residential areas because of the resulting changes in city voting patterns and because residential annexation alone does not generally provide an economic benefit to the annexing city when compared to the costs of providing services. Annexation of the Town Center area of The Woodlands is problematic because of the existing indebtedness and hotel occupancy and sales taxes in TCID, and its related economic development zones, and because of existing law which limits the aggregation of local sales taxes upon annexation to 2%.

### **Funding**

The City of Houston's ad valorem tax rate is \$0.65 per \$100 valuation; Conroe's is \$0.4828. Property owners in the annexed areas of The Woodlands would pay one of these tax rates. It is expected that the Community Associations' assessment rates would drop dramatically, and the MUD tax rates will be eliminated. County taxes likely would remain unchanged.

### **Advantages**

- The community would be governed by one entity.
- Community Association assessments would likely be lowered.
- MUD taxes would be eliminated.
- Services and service delivery would be consolidated and less fragmented.
- METRO service could be provided to The Woodlands.
- City planning would control development and redevelopment activities.
- City fire and police services would be provided.
- A broad array of additional municipal and social services would become available.
- The size and standing of the city could result in additional economic development alternatives.
- Participation in regional governance systems, such as conversion to surface water, transit improvements and rail corridor improvements could be enhanced.
- The role of the Community Associations would continue, although at a reduced level.
- Municipal ordinances enacted by the annexing municipality could be enforced.
- A single entity has authority for an emergency response.

### **Challenges**

- Loss of "local control" over services, service delivery and costs.
- Potential loss of strong community identity.
- Access to and responsiveness of elected officials is substantially diluted.
- Locally generated revenues may be diverted to other uses.

- Continued existence of TCID and the RUD could significantly increase property, sales and hotel taxes in Town Center and create disincentives for economic development.
- Potential for increased overall property taxes and assessments.
- Certainty that service fees will increase.
- Potential for significantly reduced quality of services.
- Bureaucracy of a large city government.
- Potential that no representative to Houston City Council would be from The Woodlands.

## **Alternative 5: Extension/Expansion of limited Annexation Agreements to Indefinitely Delay or Prohibit Annexation**

### **Structure Overview**

This option would entail developing a new, long-term limited purpose annexation agreement with the City of Houston and the City of Conroe or extending the current moratorium agreement. Limited purpose annexation would permit the annexing city to enforce some, but not all, of its ordinances in the annexed area, including the imposition of sales taxes, but full purpose annexation could be deferred for up to 30 years or, possibly, permanently.

### **Political Issues**

Precedent for this type of agreement has been set. City of Houston officials have entered into dozens of these types of voluntary agreements, and this appears to be their currently preferred method of annexation. Under current law, this type of strategic partnership agreement may only be entered into with a MUD.

### **Funding**

If the current model is followed, the amount of sales taxes collected by the annexing city to be rebated to the MUD's is negotiable, but would not be less than 1/2%.

### **Advantages**

- This option could forestall or, with legislative changes, could eliminate full annexation. Under current law, the City of Houston has been executing agreements for the maximum deferral period of 30 years.
- Other advantages as in Alternatives 1 and 2.
- Relatively simple solution to implement.

### **Challenges**

- Would require the consent and agreement of each MUD.
- Other challenges the same as Alternatives 1 and 2.
- Could significantly limit funding sources for new special purpose districts.
- May not provide a satisfactory permanent governance structure.

## **Alternative 6: Incorporation**

### **Structure Overview**

This option provides the broadest form of local government powers currently available and the most opportunities for local control. The new municipality would have responsibility for most services now provided by Montgomery County upon incorporation. The MUD's would be dissolved, and the debt that has been incurred by the MUD's would have to be absorbed by the new municipality.

Because of its size, The Woodlands would write its own city charter and in all likelihood become a full-service city and a general purpose government, *i.e.*, exercise all powers not prohibited by Texas law or the Texas constitution. It would have an elected mayor and city council and could also hire a city manager as CEO.

Most services now provided by the county would be eliminated or substantially reduced and would have to be replaced by the new city. Many services now provided by the Community Associations, including fire protection, would be provided by the new municipality.

### **Political Issues**

Incorporation would require the consent of Houston and Conroe or would take an act of the Texas Legislature. Substantial opposition might be expected in either case. The MUD's would be dissolved, and role of the Community Associations would be substantially reduced. TCID and the RUD would continue to exist, but their operations would likely be modified or reduced. Local opposition to these consequences is possible.

### **Funding**

The Community Associations' role and assessment rate would be greatly reduced. The MUD ad valorem tax would be absorbed by the new municipality with a uniform tax rate across the entire community. Revenues would be diversified through charges and fees, grants, franchise fees, and fines and permit fees. It is assumed that the county tax rate would not decrease. Depending upon the corporate boundaries of the new city relative to TCID and the RUD, additional sales tax revenue may become available, but the new city property tax could overlay the RUD tax in the commercial areas.

### **Advantages**

- Local control.
- Governmental standing.
- Ability to pass ordinances.
- Ability to implement planning and zoning and to regulate land use.
- Ability to establish additional services and programs, including rehabilitation/redevelopment.
- Consolidation of services in one entity.
- One set of elected representatives.
- Protection from annexation.
- More diverse and broader revenue base.
- More regulatory authority.
- Can convert assessments to deductible tax payments.

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- Greater ability to control public safety services locally
- Single entity has authority for an emergency response.
- Eligibility for grants and revenue sharing from state and federal government that require legal government structure.

### **Challenges**

- Another layer of government is created.
- Not all existing layers of existing government would be eliminated.
- County services are reduced but taxes remain.
- New city tax replaces MUD taxes and Community Association assessments partially, but may be higher in total.
- TCID and RUD taxes will continue in business areas and may possibly be overlapped by new city taxes and charges.
- Substantial start-up costs.
- Difficulties in transitional services and staffing.
- Potential for bureaucracy.
- Loss of public access to and responsiveness from elected representatives.
- Potential for local ordinance-making controversies.
- Possible opposition by TWDC and builder/developer community.
- Possible adverse effects of planning and zoning.
- Possible effects of new taxing/regulatory system on economic development/business retention.
- Represents the “big government” or “more tax, more spend” approach to many taxpayers.
- Potential for provocation of unwanted annexation.

## **Alternative 7: Incorporation with Development Agreement**

### **Structure Overview**

This option would be identical to Alternative 6, except that some type of development agreement could be established with TWDC to “grandfather” their development rights. This would allow TWDC to implement existing plans without being severely impacted by the new municipality.

### **Political Issues**

Same issues as the previous option, but the development agreement could be challenging since much of TWDC’s planning is internal, and to be of any practical effect, the agreement would have to be based on disclosure and review/approval of future plans.

### **Funding**

Funding would be the same as in Alternative 6.

### **Advantages**

- Same as in Alternative 6.
- Would allow TWDC to continue with development plans which could result in their support.

### **Challenges**

- Defining the agreement with TWDC.

## **Alternative 8: Non-Traditional Municipal Incorporation**

### **Structure Overview**

This option would be identical to Alternative 6, except the majority of traditional municipality staff responsibilities would be outsourced. There would be an elected governing council that would have governing and contracting authority like a traditional municipality, but without dealing with the same level of staffing issues. This has been tried in other municipalities with mixed success.

### **Political Issues**

Same issues as Alternative 6, but the new municipality would be less burdened by start-up challenges.

### **Funding**

Same as Alternatives 6 and 7.

### **Advantages**

- Less encumbered by a large bureaucracy.
- Reduced start-up investment in capital equipment and facilities..

### **Challenges**

- Presumed efficiencies of operation may not materialize.
- Taxpayers and residents may perceive as impersonal and unresponsive.
- Outsourcing all functions of city government may impede accomplishment of political objectives of elected leadership.
- May be difficult to maintain service standards.

## **Alternative 9: Limited Annexation – Borough Approach**

### **Structure Overview**

This option would encompass developing agreements with an existing municipality to have portions of the community annexed. However, the annexation would occur within a borough structure that would have specific areas with their own unique guidelines and characters. This option could be accomplished by building upon the village concept already in place in the community.

This alternative would divide services between the primary city and smaller communities. The primary city would manage area-wide projects, such as public transportation, freeways, solid waste disposal, indigent care and airports. The smaller areas, the villages, would be responsible for local street maintenance, solid waste collection and traffic management. Other tasks, such as police and fire protection and land use controls, could be negotiated depending on how much financial and managerial responsibility a village wished to take. Village residents would still pay their share of taxes to fund the area-wide projects, but could also fund local needs to the degree they desire and can afford.

### **Political Issues**

Reaching agreement among existing service providers, elected representatives and existing municipalities on this concept and on the division of responsibilities and funding sources could be extremely difficult and time-consuming. No legislation currently exists to implement such an alternative.

### **Funding**

Funding would be similar to incorporation, but with revenues to be divided and shared and with additional services added and paid for by the individual boroughs.

### **Advantages**

- This option would allow The Woodlands to retain some level of local control over many of the “quality of life” issues and services.
- Minimizes many of the challenges of incorporation.

### **Challenges**

- A new, unfamiliar structure which would require special legislation.
- Detailed function and cost sharing agreements would be required for both Houston and Conroe.
- Implementation could be costly and time-consuming and would require a high degree of local unity of purpose.

## **Alternative 10: Staged Incorporation**

### **Structure Overview**

This option would break down the incorporation process into smaller pieces. Conceivably, the more mature areas of The Woodlands could incorporate first, placing other areas in its extraterritorial jurisdiction and crafting a strategic partnership agreement between appropriate entities. As areas approach build-out, they could be annexed into the City of The Woodlands.

### **Political Issues**

Similar political issues to all incorporation processes, but this Alternative could lead to division in the community between the incorporated area and unincorporated areas.

### **Funding**

Funding would be similar to Alternative 6 in the area of the municipality and similar to Alternative 5 in the unincorporated areas. A strategic partnership agreement could be crafted between the new city and the unincorporated areas through the Community Associations and/or the MUD’s so that those residents would continue to pay for the services provided by the new city.

### **Advantages**

- This Alternative could ease the pressures of going from nothing to everything at once.

### **Challenges**

- Like Alternative 6, this approach would require the consent of existing municipalities, and, perhaps, additional legislation.
- Has other challenges as faced in Alternative 6.
- Additional challenge of potentially cutting across MUD boundaries.

## **Alternative 11: The Woodlands Solution**

### **Structure Overview**

This option would represent a new type of hybrid governance structure developed to include the desirable traits from other options and customized to fit the community's specific needs.

### **Political Issues**

Like Alternative 9, reaching community consensus on the specific attributes, powers and funding sources to be made available, obtaining consent from the existing cities and convincing the Legislature to pass legislation to implement something completely new and different will be a difficult, expensive and time-consuming task.

### **Funding**

Funding could be more diverse but would have to be negotiated.

### **Advantages**

- Solution would be new, innovative, and tailored to meet the unique needs of The Woodlands.

### **Challenges**

- Inertia.
- Fear of the unknown.
- Labor intensive and time-consuming experiment with uncertain results.
- Research, analysis and negotiation costs could be substantial.
- Difficulty in educating public and government constituencies.