

RESOLUTION NO. 2014-119R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS ADOPTING AN ANNEXATION AND EXTRATERRITORIAL JURISDICTION (“ETJ”) MANAGEMENT STRATEGY; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Annexation/Extraterritorial Jurisdiction (“ETJ”) Management Strategy is hereby adopted.

PART 2. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on September 2, 2014.



Daniel Guerrero
Mayor

Attest:



Jamie Lee Pettijohn
City Clerk

Annexation / Extraterritorial Jurisdiction (ETJ) Management Strategy

Vision San Marcos, the City's adopted Comprehensive Plan, sets goals and objectives for the City. The Vision Statement for the Land Use element of the Comprehensive Plan states "We envision San Marcos as a community with balanced and diverse land uses that expand our lifestyle choices while protecting and enriching our historical, cultural, and natural resources." The first goal of this element is to "Direct growth, compatible with surrounding uses." A primary objective under this goal is to "Update the Annexation / Extraterritorial Jurisdiction (ETJ) Management Plan." In accordance with this direction, staff has developed this Annexation / ETJ Management Strategy for City Council consideration and adoption.

Every annexation and ETJ decision should be policy driven and evaluated in terms of how it fits with the annexation-related goals and policies of the comprehensive plan and with this strategy. Annexation and ETJ management should be viewed as a continuous process that begins with ETJ best management practices and ends with annexation into the City.

The strategy is intended to facilitate annexation as a means of ensuring that San Marcos fully benefits from development in the ETJ and to protect and, when possible, extend the ETJ.

The Strategy includes the following elements:

- Managing the City's Extraterritorial Jurisdiction (ETJ)
- Annexation Planning
- Strategy Implementation
- City Staff's development of a written Annexation Resources Supplement to facilitate the implementation of this Strategy

Managing the ETJ

What is the ETJ?

Because, with the exception of City-owned land, San Marcos may only annex land within its ETJ, this strategy begins with ETJ management. San Marcos' ETJ is the contiguous unincorporated land within a 3.5 mile radius extending from and adjacent to the city limits that is not within another city's ETJ. The purpose of the ETJ is to allow cities to plan for growth in the area outside their corporate boundaries and to annex new development. The ETJ does this in two ways. First, there is a statutory prohibition against a municipality annexing into another city's ETJ. This provides a city with land that it alone can annex encouraging planning and utility extensions in the ETJ. Second, cities are authorized to enforce their subdivision regulations and infrastructure standards (and a very limited number of other regulations) in their ETJ. This ensures that development in the ETJ meets the city's development standards further facilitating annexation.

ETJ Management Issues

Because of the relationship between annexation and the ETJ, ETJ management is critical. There are a number of ETJ issues that San Marcos and rapidly growing cities face. They include:

1. Requests for ETJ exchanges and releases between other cities
2. Petitions for creation of Municipal Utility Districts (MUDs) and Water Districts
3. Petitions for creation of ETJ Public Improvement Districts (PIDs)
4. Development of large projects that cannot be immediately annexed or for which deferral of annexation is sought through approval of a development agreement.

The application of the following best management practices can aid in dealing with these issues.

Best Management Practices (BMPs) for the City's ETJ Management

1. ETJ management decisions should support implementation of the Comprehensive Plan and the adopted Annexation / ETJ Management Strategy. ETJ management decisions support the Comprehensive Plan by directing growth towards the appropriate intensity zone in the ETJ.
2. Discretionary actions, including consent to the creation of MUDs and PIDs in the ETJ or approval of development agreements should be evaluated in terms of their impact on implementation of the Comprehensive Plan and on annexation of the property that is the subject of the discretionary action.
3. Owners of properties in the ETJ that have not otherwise consented to annexation will be offered annexation/development agreements. If the owners have a development proposal that has staff support, an agreement in accordance with Sec 212.172 Local Government Code agreements should be negotiated. Owners of land expected to remain in agricultural use should be offered an agreement meeting the requirements of Section 43.035 Local Government Code
4. The Annexation/ETJ Review Team will meet routinely to establish linkages between annexation and the CIP, utility extension and budget processes.
5. City Council will meet routinely to hear Annexation/ETJ Review Team briefings and discuss the policy and amend the Strategy as necessary.
6. Property acquired by the City will be evaluated to determine suitability for annexation.
7. Property that can be served when utilities are extended, whether through an Out of City Utility extension or connection request or a City Capital Improvement Project, will be evaluated to determine the suitability for and timing of annexation.
8. The schedules for approval of annexations by the City Council should be planned to meet applicable laws, ordinances and public notice requirements.

Annexation Planning

What is annexation?

Annexation is the process by which a city extends its municipal services, regulations, voting privileges and taxing authority to new territory. It is one of the primary means by which cities grow. Cities annex territory to provide urbanizing areas with municipal services and to exercise regulatory authority necessary to protect public health and safety. Annexation is also a means of ensuring that current and future residents and businesses outside a city's corporate limits who benefit from access to the city's facilities and services share the tax burden associated with constructing and maintaining those facilities and services. Annexation and the imposition of land use controls may also be used as a tool to implement a comprehensive plan.

Annexation is also a primary means by which cities benefit from development occurring in the ETJ. This is especially critical in cases where the city has either directly or indirectly facilitated that development.

Statutory Framework

As a home-rule city, San Marcos may annex territory on both a voluntary and an involuntary basis. Most of the Texas statutes associated with annexation are codified in Chapter 43 of the Texas Local Government Code. Chapter 43 establishes a number of general procedural requirements for all annexations. City staff shall monitor changes in state law and periodically recommend changes to applicable ordinances, this policy and internal procedures consistent with any changes in the law.

Annexation Planning

The City's annexation planning process includes two basic components:

1. Rolling Annexation Candidate List
2. Annual Annexation Program

The Rolling Annexation Candidate List includes areas that can be reasonably expected to be annexed over a 10 year planning period as well as areas covered by development agreements under which the City has agreed to defer annexation. Areas will be added to the candidate list on a regular basis.

Areas on the candidate list are evaluated on an annual basis and areas that are ready for annexation are proposed for inclusion in the Annual Annexation Program. The annual program is comprised of areas from the candidate list as well as areas for which annexation has been requested.

Considerations for annexation evaluation

Each annexation candidate area should be evaluated on its unique land use, environmental, fiscal and demographic characteristics. The following considerations will be used to determine whether a candidate area is ready for annexation in a given year. The evaluation is not a purely additive process, however. Some considerations outweigh others and the relative weight may change from year to year. For instance health and safety considerations may trump financial impact to the City and ranch land with no development proposals pending one year may be the site of a major proposal the next. The evaluation considerations are a means of ensuring that the right questions are asked.

The following are the **threshold considerations** for annexation:

1. What is the appropriate annexation procedure based on the characteristics of the property, i.e. appraised for agricultural or wildlife management use or timber land, fewer than 100 residents, limited purpose annexation under City Charter?
2. Does annexation of the area support the Comprehensive Plan?
3. Is the proposed annexation area contiguous to the existing City limits or can contiguity be established?
4. Is there an agreement (Strategic Partnership, Annexation/Development Agreement etc.) with an established annexation date/trigger point within the 10-year mid-term planning period?
5. Can the area be provided with full municipal services within the deadlines established by state law?
6. Is the area bounded on two sides by City Limits (i.e. doughnut hole)?

The following are **additional considerations** listed below to be used in evaluating a property to determine its suitability for annexation:

1. Has a water and/or wastewater service extension request been filed/approved for the property (OCUs)?
2. Has the property been legally subdivided?
3. Is the area within the certificated (CCN) area of another service provider?
4. Is a CIP or budget amendment needed to provide services?
5. Has a development proposal been submitted/approved for the property?
6. Does the annexation create an opportunity for further annexations/ETJ expansions in the short term?
7. Are there emergency service district (ESD) related expenses associated with the annexation?
8. Is there a positive financial impact for the City?
9. Is the land unoccupied?
10. Is there a need for land use control?
11. Are there health and safety issues?

Strategy for Implementation

Annexation/ETJ Management Review Team

To great degree, the strategy will be implemented through the work of the Annexation/ETJ Management Review Team. The team will meet on a routine basis to exchange information, discuss ETJ proposals and work to resolve internal conflicts regarding annexation and ETJ issues. This group also will be charged with identifying areas to be included in the Rolling Annexation Candidate List and the Annual Annexation Program. They will also provide input to the annexation service plans and the fiscal impact model.

The Annexation/ETJ review team will be comprised of City staff from the following Departments:

- Development Services
- City Manager
- City Clerk
- Economic Development
- Engineering / Capital Improvements
- Finance
- Legal
- Fire
- Police
- Public Services
- Environmental Health
- Parks and Recreation
- Communications

Rolling Annexation Candidate List

The Rolling Annexation Candidate List is a continuously updated GIS/spreadsheet-based working document used by staff for internal planning purposes. It includes all the areas that may be reasonably expected to be annexed over the mid-term (ten year planning horizon). The list should also include areas covered by annexation/development agreements, areas that have requested utility service and areas covered by strategic partnership agreements (SPAs) irrespective of annexation date. In general, the areas proposed for inclusion in the candidate list can be categorized as:

1. Infill Areas (areas bounded on two sides by the City Limits)
2. Out of City Utility Areas (areas served with City water and wastewater)
3. Potential Section 43.035 Agreement Areas (agricultural land that can be provided with City services which can be offered a Section 43.035 agreement)
4. Development Agreement Areas (land covered by existing development agreements)

The list may also include additional areas that do not neatly fit the categories listed above. Potential areas for the Rolling Annexation Candidate List are shown on the attached map.

The Rolling Annexation Candidate List database should include spatial (GIS), land use, ownership, utility service and other annexation-related data for each potential area. The list is dynamic in nature and should be reviewed and updated regularly to maintain accuracy. Every year, the list should be reviewed to identify areas to be added to the annual annexation program. If updated on a regular basis, it can also be used to evaluate requests for voluntary annexations. The database associated with it can also be used as an input to CIP and budget planning. The Annexation Resources Supplement discusses the municipal annexation plan.

Annual Annexation Program

The annual annexation program is comprised of the areas proposed for annexation in the current calendar year. Each year, all of the areas in the Rolling Annexation Candidate List should be evaluated

for annexation in that calendar year. Selection of areas for annexation follows an in-depth staff analysis based on the annexation considerations described above and the fiscal impacts associated with the annexations. Because of the time required for the analysis and the additional time required for hearings, selection of areas for the annual program should begin early in the year. Areas may be added to the annual program throughout the year as opportunities for voluntary annexation arise.

Fiscal Impact Model

Given the fiscal implications of annexation, the cost of providing municipal services needs to be estimated and weighed against the anticipated revenues of each annexation program. Areas proposed for inclusion into the annual annexation program should undergo financial analysis prior to adoption of the plan scheduling annexation hearings.

First year service costs will almost always exceed revenues because of the lag time between annexation and the collection of taxes. Annexations may also require one-time only expenditures for capital facilities. To spread these costs over several years and to provide a better picture of the operating costs associated with those facilities, the fiscal impact of annexations should be estimated over a multi-year time frame. Fiscal impact analyses for annexation are typically based on the time period used by the city's finance department for budgetary planning or on the ten-year period of the annexation service plan. The City's fiscal model for annexation is based on a ten-year period.

Annexation Resources Supplement

In conjunction with the adoption of this Annexation/ETJ Management Strategy, the Annexation/ETJ Management Review team shall assemble such written resources and develop such internal procedures consistent with state law and this Strategy as necessary to facilitate the implementation of this Strategy. A map of San Marcos' ETJ and surrounding municipalities as well as detailed discussions of each BMP, MUDs, Water Districts and ETJ PIDs will be contained in the supplement.

Initial Action Items

In order to implement the strategy the following items have been identified to undertake after adoption of the report:

- Establish an Annexation/ETJ Review Team.
- Create the Rolling Annexation Candidate List
- Develop and utilize an annexation fiscal impact model (FIM).
- Monitor ETJ boundaries with adjacent cities (i.e. Kyle, Martindale, New Braunfels, and Wimberley) and identify and resolve boundary issues.
- Evaluate the City's Special District Ordinance under Chapter 70 of the City Code and consider amendments pertaining to MUD's and the advantages and disadvantages of establishing a policy governing the City's consent to PID's in the ETJ.