

**RESPONSES TO QUESTIONS ABOUT THE  
HXING PID AND THE LOCAL GOVERNMENT BOARD,  
PRESENTED TO STAFF BY BOARD MEMBER KEN KESSELUS**

1. Provide general Information about what the PID is and how it works. (Some residents, for example, still think it is the same as the Home Owners Association.)

***The PID is not the same as a Homeowner's Association, rather, it is a type of 'special district' allowed by the Texas Legislature. The Hxing PID was created pursuant to the State law set out in the Local Government Code, Chapter 372. The purpose of the Hxing PID was to provide for the construction of certain public improvements for use by the residents in the PID that were above the "standard" public improvements required by developers in the City, as set forth in the City's Subdivision Code, and to provide for a mechanism for payment of the PID costs, via a levy of an assessment against the property located within the PID boundaries.***

a. In particular:

- (1) How does the board work, who appoints it, what is its responsibility, etc?

***The PID was created by a Petition filed with the City by Sabine Investment Corp. in July of 2001. After holding the necessary public hearings, the City Council passed a Resolution to create the PID in September 2001. At that time the extensive work necessary to finalize the creation of the PID, develop the Service and Assessment Plan, etc., began. The City Council finally authorized the creation of the PID, approved the original Service and Assessment Plan, and approved the levy of the assessments in late 2003. [The various Resolutions and actions have been amended by the City Council, off and on, through the years, but the basic structure, Service Plan and assessments, and general purpose of the PID have remained the same.]***

**The Local Government Corporation (also referred to as the PID Board) was incorporated in 2004, via a filing with the Texas Secretary of State, pursuant to the authority found in the Transportation Code, Sec. 431.101. The purpose of the LGC is to implement the City-approved Hxing Service Plan and to perform such other functions as may be assigned to it by the City council, from time to time. In general, the LGC assists the City in overseeing the PID and reporting, periodically, to the Council what the Hxing PID is doing.**

**As per the LGC's Articles of Incorporation, the Board is comprised of "any number of Directors," but may never have fewer than five members. (Article 7, Section iii) The Directors are appointed by the City Council. (Id.)**

**At this time, the LGC Board has the following members, appointed by the City Council:**

- 1. Chair - City Manager, Michael H. Talbot, City Manager**
- 2. Terry Sanders**
- 3. Jim Kershaw**
- 4. Ken Kesselus, Councilmember,**
- 5. Darlene Louk, Owner of Property in the PID**
- 6. Brandon Johnson – Resident of Hxing Subdivision**
- 7. Mark Sheffield – Owner of Commercial Property in the PID**

**(2) What does the PID current pay for – e.g. fences, the park ??**

**When it was formed, the PID had an initial Capital investment in the range of approximately \$12 million, that was paid by the Developer, Sabine Investments, for the design and installation of various public infrastructure and improvements in the PID, including fences, and the large public park with soccer fields and fishing pond. The public improvements authorized by the City Council in Resolution No. 2003-34 and outlined in the Service Plan include the following:**

- 1. 15 acre area for “Hunter’s Crossing Park”**
- 2. storm sewer lines and facilities**
- 3. extensive storm water drainage and detention system**
- 4. public streets**
- 5. landscaping of public r.o.w.**
- 6. landscaping**
- 7. recreational facilities in Hunters Crossing Park**
- 8. hike and bike trail system (± 1.75 miles long)**
- 9. entry sign features**
- 10. public area property maintenance**
- 11. engineering, planning, landscape architect, and legal**
- 12. ongoing supplemental services**

***The “capital component” of the PID Assessment is collected to reimburse the Developer for those public improvements that are identified in the Service Plan. In addition, there is an “O&M component” to the PID Assessment that is collected each year to pay for the on-going maintenance of the public improvements authorized by the City in the Service Plan. Note: No increase in the capital component of the PID expenditures has ever been requested or approved.***

- (3) When does the PID end and what happens after it ends? Is it possible for the city to extend the life of the PID beyond the projected ending date?

***The PID expires in 2027/2028. Before that time, the Developer will have conveyed all of the various public improvements to the City and, thus, at the time that the PID expires, the on-going operations and maintenance of these public improvements will revert to the City, and will be paid for and managed in the same manner that other public improvements are handled by the City.***

***The City has not been asked to take any action that might extend the life of this PID beyond that approved by the City Council in 2003. It is uncertain, at this time, whether any extension is allowed by law, but none has been sought in this case.***

- (4) Is it true that the PID can be stopped with the signatures of 51% of the assessed valuation of the properties, with the proviso that the property owners would have to pay off current debt?

***Local Government Code, Section 372.011 provides for dissolution of PIDs. It states that, at the City's discretion, a public hearing may be called for the purpose of evaluating the possible dissolution of a previously approved district upon the City's receipt of a petition for dissolution, signed by 'owners of taxable real property representing more than 50% of the appraised value of taxable real property liable for the assessment'. However, if there is an eventual dissolution approved by the City, which is in the City's discretion (i.e., not mandatory), the district remains in effect until all of the obligations for indebtedness have been met.***

***This provision is generally used in instances when PIDs were approved for formation, but were subsequently never developed. By dissolution, the municipalities allow other development to occur that is not subject to the overlying PID.***

2. Debt

- a. What is the current debt of the PID?

***The capital improvement costs of the PID were outlined in the Service and Assessment Plan, prepared and approved by the City in November 2003, and total \$11,961,260. This amount is what the assessments were predicated on and the figure upon which the assessments are collected annually by the Bastrop County Tax Assessor and Collector. No additional debt/capital costs are being proposed to be added to the Service and Assessment Plan. The Developer's current debt [or capital cost] for the PID, as of June 30, 2010, had increased to \$17,317,898. However, the current Service and Assessment Plan has not been amended nor is an amendment proposed for fiscal year 2014. Therefore, the assessment is set on the basis of the original debt in the approximate amount of \$12 million.***

- b. What is the meaning of the \$11.9 million figure listed in the public notice?

***The Hxing Public Improvement District (PID) was assessed for the capital costs in the original Service and Assessment Plan, prepared and approved by the City in November 2003. Ordinance 2003-35 outlined the Capital Costs for commercial and multi-family infrastructure (public) and additional costs for related supplemental services will total approximately \$7.365 million. Additionally, the capital costs for single-family residential infrastructure (public) and additional costs for related supplemental services will total approximately \$4.597 million. The \$11.9 million figure in the hearing notice is derived from the sum of these two numbers. The \$11.9 million in the public notice is not for any "new" or "additional" capital component to be added to the Service and Assessment Plan. Rather, it only identifies the amount of improvement set out in the original Service and Assessment Plan.***

- c. Is there a payment schedule for future years showing how the debt will be retired and how it is tied in with projected assessments? Could we produce a chart to clarify this for residents?

***There is no debt to the City. All of the project debt is carried by and owed only by the Developer, i.e., Forestar, the successor to Sabine. Accordingly, no specifics on debt retirement are available. The capital costs and their assessment schedules are available in the Service and Assessment Plan, prepared in November 2003. They are available upon request.***

- d. What is the interest rate we are paying on the debt?

***Neither the City nor the PID are paying any interest nor do either hold any debt for the PID. Forestar would be the only party responsible for paying their debt and the associated interest.***

- e. At the beginning of the PID, did the city issue bonds to create the initial infrastructure, and if so, how much was the initial debt?

***The City did not issue bonds for the PID and does not receive any capital assessment proceeds.***

- f. If there is debt left at the end of the PID, who assume responsibility for paying the debt?

***Forestar is responsible for paying any debt that is left at the end of the PID.***

3. PID fees.

- a. Can we provide a chart showing the current PID fees, what they will be if we enact the current proposal, and a projection of fees in future years? (One resident recalls seeing a 2004 document stating that the fee will be \$600 in the final year).

***There is no increase in the capital improvement assessment over that which was originally identified in the Service and Assessment Plan prepared in November 2003. The resident is referring to what appears to be the assessment schedule contained in the original Service and Assessment Plan. That schedule is available upon request.***

- b. Are the proposed additional fees for next year only or permanent additions?

***There are no new “proposed additional fees”, rather there is merely a continuation of the assessments set forth in the original Service and Assessment Plan, prepared and approved by the City in November 2003. The Service and Assessment plan identifies the capital amount to be assessed annually, for each affected property.***

***The “Fees” that are under consideration by the LGC this evening are not new or additional fees. The fees being presented this evening are for the “Operation & Maintenance” [O&M Assessment] for the areas identified in the “Public Improvements District.” The O&M Assessment for “residential lots” being presented this evening is in the same amount as it was in FY-13, i.e., \$56.16 per residential lot. Nothing new is being added to the Public Improvement District.***

4. Infrastructure improvements.

- a. Can we provide details about what improvements will be made under the proposal?

***There are no new improvements proposed. All improvements are those set out in the original 2003 Service and Assessment Plan. There is no proposal under consideration by the LGC other than setting the “O&M Assessment for FY-14”, which the LGC is required, by law, to do each year around this same time. The proposed O&M assessment for residential lots is in the same amount as the assessment for last year. Nothing new is being added nor is any change in the Service and Assessment Plan being proposed.***

- b. Will the city oversee the construction, review bids, and approve the contractors etc, in order to insure the residents that the money is spent wisely?

**This answer assumes that this question refers to the two new subdivision Sections 3E and 5B that are currently being planned for Hunter's Crossing Subdivision. The City will provide periodic inspections of the infrastructure improvements being constructed for Sections 3E & 5B. The developer will be required to post a fiscal bond for all the required infrastructure for Sections 3E and 5B. Once the developer has selected a contractor and agreed upon a price for the infrastructure the City will review the price quoted by contractor to ensure: (1) that the infrastructure can be installed for the bond/escrow amount, and (2) the fiscal bond posted is adequate for assuring the infrastructure will be constructed. The City plays no role in the selection of the contractor; the selection of the contractor is done by the developer.**

**Note however that the capital costs associated with this new development is already covered in the Developer's original Capital estimate which was in the range of \$12 million. This work adds nothing to the Assessment rolls.**

5. Finances.

- a. Does the city control and account for all of the money? (Please mention the independent audit.)

**All of the assessments and accounting for the PID is done by the City, and these funds are regularly audited by the City's independent auditor.**

6. Can we have detailed minutes of the hearing that can be made available to residents who cannot attend?

**Yes, minutes are kept of all meetings of the LGC and are available to anyone on request.**

And finally I can see no benefit to the homeowners incurring more debt. This PID can be stopped today with the signatures of 51% of the assessed valuation of the properties. We would then have to pay off current debt.

***There are no new improvements proposed. All improvements are those set out in the original 2003 Service and Assessment Plan. There is no new debt to the PID.***

Since Forestar is the sole beneficiary of the new assessments, (I see no benefit to the current owners as we have everything we need) why should we allow this PID to continue? The sole beneficiary for new Walking paths and new streets and infrastructure rests with Forestar. They need to pay it.

Forestar will sell their land and make the profit. They can spend their own money to finish out this community. With all of the development the raw land will sell.

17. Did Forestar board members discuss the new assessments and vote to approve them? They are profiting from this scheme to rob from the citizens to enrich a developer that should never have happened.

***If this question references the LGC Forestar board member, that member was specifically identified and included on the Board to 'vote the views' of the Developer, as are the other members intended to do. When the Board was established by the Council, it specifically named a representative of the Developer, and that representative's participation is expected inasmuch as it is entitled to provide a vote that is representative of a large portion of the taxable land owned in the PID. In addition, the Council has appointed two other board members who have an interest in the PID, one a resident, and another a business owner who pays the commercial assessment. The City is seeking and wants to hear from these three members - all of whom have a similar type interest in the PID operations.***

***Conversely, if this question references the Forestar board of directors, we have no knowledge of what that body may have discussed, as it is a private corporation.***

***The Developer is not taking any funds from the City or the citizens that were not approved by the City as appropriate assessments for the development of public improvements in the PID boundaries.***