

Control Number: 46120



Item Number: 58

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SOAH DOCKET NO. 473-16-5823.WS
P.U.C. DOCKET NO. 46120

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PUBLIC UTILITY COMMISSION
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**CITY OF MIDLOTHIAN NOTICE OF
INTENT TO PROVIDE WATER
SERVICE TO LAND DECERTIFIED
FROM MOUNTAIN PEAK SPECIAL
UTILITY DISTRICT**

§
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§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**DIRECT TESTIMONY
OF
MICHAEL G. ADAMS**

ON BEHALF OF
THE CITY OF MIDLOTHIAN; TEXAS

January 17, 2017

(Filename: DOCS1-#247322-v1-Direct_Tesimony-M_Adams.doc)

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P.U.C. DOCKET NO. 46120

CITY OF MIDLOTHIAN NOTICE OF § BEFORE THE STATE OFFICE
INTENT TO PROVIDE WATER §
SERVICE TO LAND DECERTIFIED § OF
FROM MOUNTAIN PEAK SPECIAL §
UTILITY DISTRICT § ADMINISTRATIVE HEARINGS

GLOSSARY OF ACRONYMS/DEFINED TERMS

<u>Acronym/Defined Term</u>	<u>Meaning</u>
CCN	Certificate of Convenience and Necessity
City <i>or</i> Midlothian	City of Midlothian, Texas
Commission <i>or</i> PUC	Public Utility Commission of Texas
Decertification Order	The final order in Docket No. 44394, entered May 1, 2015, decertifying the Park.
Decertified Area <i>or</i> Park	Approximately 97.7 acres in Ellis County, Texas, removed from Mountain Peak's CCN No. 10908 in Docket No. 44394.
Docket No. 44394	PUC Docket No. 44394, <i>Petition of City of Mountain Peak to Amend Mountain Peak Special Utility District's Certificate of Convenience and Necessity by Expedited Release in Ellis County.</i>
Mountain Peak <i>or</i> MPSUD	Mountain Peak Special Utility District
Notice of Intent	Notice of Intent to provide retail water service filed in this docket
TCEQ	Texas Commission on Environmental Quality
TNRCC	Texas Natural Resource Conservation Commission
TWC	Texas Water Code

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CITY OF MIDLOTHIAN NOTICE OF § BEFORE THE STATE OFFICE
INTENT TO PROVIDE WATER §
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FROM MOUNTAIN PEAK SPECIAL §
UTILITY DISTRICT § ADMINISTRATIVE HEARINGS

LIST OF SPONSORED EXHIBITS/ATTACHMENTS
(Michael G. Adams)

<u>Exhibit</u>	<u>Description</u>	<u>Starting Page</u>
MA-1	2006 Bond Election Pamphlet.....	11
MA-2	Second Supplemental Affidavit of Randel Kirk (March 16, 2015).....	14

**DIRECT TESTIMONY OF MICHAEL ADAMS
ON BEHALF OF THE CITY OF MIDLOTHIAN, TEXAS**

1
2
3
4 **Q. What is your name, title and business address?**

5 A. My name is Michael G. Adams. I am the Executive Director of Engineering & Utilities
6 for the City of Midlothian, Texas. My business address is 104 West Avenue E,
7 Midlothian, Texas 76065.

8 **Q. What is your role in this proceeding?**

9 A. I am presenting testimony as the primary business representative for the City of
10 Midlothian, Texas, the retail public utility that seeks certification to provide retail water
11 service to a new City park in this proceeding.

12 **Q. How long have you been employed by the City?**

13 A. I was hired on April 29, 2002, as the Assistant City Engineer, and worked as City
14 Engineer and then Director of Engineering before being named the City's Executive
15 Director of Engineering and Utilities in 2006, so I have been employed by Midlothian for
16 almost 15 years.

17 **Q. What are your job responsibilities as Executive Director of Engineering & Utilities?**

18 A. On behalf of the City I oversee the operation and maintenance of the City's water system
19 along with other job responsibilities. As such, I supervise the planning and design of
20 facilities, including the various interconnections with sources of water and with
21 neighboring utilities. I also am involved in performing or retaining other engineering,
22 planning and construction services in support of the system. I advise Midlothian's
23 management and our City Council on matters related to the water system, which operates
24 under CCN No. 11706.

25 **Q. Are you a professional engineer licensed by the State of Texas?**

26 A. Yes, I am a professional civil engineer registered in the State of Texas, Tex. Lic. No.
27 87605.

28 **Q. Are you familiar with Midlothian's water supply system, including its water
29 treatment plants, transmission lines, storage tanks, and distribution system?**

30 A. Yes.

1 Q. As part of your employment, are you tasked with evaluating retail water systems,
2 evaluating future development needs, and making general determinations of
3 whether facilities are used and useful in providing service?

4 A. Yes.

5 Q. Are you also familiar with Mountain Peak's water system?

6 A. Yes, to a certain degree I am, since Mountain Peak is one of the City's neighboring utility
7 systems, Mountain Peak is a wholesale water customer of the City, and we have worked
8 with each other in various contexts, including the proceeding that resulted in the
9 Decertification Order and in this proceeding. As such, I have become familiar with
10 certain aspects of Mountain Peak's system. Furthermore, I have reviewed some of the
11 documents produced by Mountain Peak in this proceeding.

12 Q. What is your familiarity with the tract of land referred to in this proceeding as the
13 "Park" and "Decertified Tract"?

14 A. The term, "Decertified Tract" refers to the 97.7 acres of about 104.44 acres purchased by
15 the City in 2010 as a "Multi-Use Community Park" contemplated under the Park
16 Facilities Bond Program approved by the City's voters in 2006. Attached as Exhibit
17 MA-1 is a true and correct copy of the information pamphlet on the bond measures set
18 for voter consideration on May 13, 2006, including Proposition No. Three, funding the
19 Park Facilities Bond Program. Although parkland is managed by another department, I
20 have been directly involved in the overall process of evaluating potential sites for the
21 "Multi-Use Community Park," which the Park Facilities Bond Program described as a
22 roughly 125-acre regional recreational park with athletic fields and other related
23 amenities. As part of the evaluation of this property as a potential site, both prior to
24 purchase and in development after purchase, I have reviewed and analyzed the water
25 service issues, among other issues. The Decertified Tract is all but about 6.7 acres of this
26 regional park under development within the City. I was also the City's business
27 representative in the 2015 proceeding that resulted in decertification of the Park from
28 Mountain Peak's retail water service area, PUC Docket No. 44394, *Petition of City of*
29 *Midlothian to Amend Mountain Peak Special Utility District's Certificate of Convenience*
30 *and Necessity by Expedited Release in Ellis County*. I have continued to be involved with

1 the park's development, with proceedings related to Mountain Peak's appeal of the
2 Decertification Order, and, now, with this proceeding.

3 **Q. How did Mountain Peak describe its purported water service to the Park in Docket**
4 **No. 44394?**

5 A. Speaking through its long-time General Manger, Randel Kirk, Mountain Peak submitted
6 affidavits that described their purported service to the regional park property, including
7 the 97.7 acre tract that is the Park, which was referred to as the "Amended Park Property"
8 in that proceeding. Mr. Kirk's Second Supplemental Affidavit, dated March 16, 2015,
9 identified a six-inch water line along the Park's southern boundary, located on the Park,
10 with "*the capacity available*" to serve the Park, ¶6. In addition, Kirk stated that
11 "distribution lines and other facilities near the Amended Park Property" have "*capacity*"
12 to provide service, "including distribution lines, storage tanks, and pump stations." ¶7.
13 With specific regard to a 1 million gallon storage tank located at Water Plant No. 8, Kirk
14 stated that the tank "was originally planned to be 500,000 gallons, but it was increased to
15 1,000,000 gallons in response to *potential development on or near* the Park Property and
16 the Amended Park Property." ¶7 (emphasis mine). In addition, Kirk stated that it
17 developed and furnished water supplies "*which could be used to serve*" the Park, and
18 otherwise "invested in water supplies sufficient to serve customers *in the area*, including
19 the Amended Park Property," concluding that Mountain Peak is "committed to serving
20 *all customers within its service area.*" ¶8 (emphasis mine). A true and correct copy of
21 this affidavit, without attachments, is included as **Exhibit MA-2**.

22 **Q. Why are Mountain Peak's prior descriptions of its purported service to the Park**
23 **important today?**

24 A. It is important to the fundamental question in this phase of the docket as to whether any
25 of Mountain Peak's property could have been rendered useless or valueless as a result of
26 the Decertification Order of May 1, 2015, which confirmed that the Park was not
27 "receiving water service" under TWC § 13.254(a-5) and (a-6). If none of Mountain
28 Peak's property was rendered useless or valueless, then the Commission should certify
29 that Midlothian can serve the property, minimizing further delays in processing what was
30 initially believed to be an expedited process.

31 **Q. What relationship do you see between the Docket No. 44394 and this docket?**

1 A. In Docket No. 44394, the Commission undertook a fact-intensive review and applied the
2 law applicable to the particular statute relied upon in the petition, TWC § 13.254(a-5) and
3 (a-6). As a *landowner*, Midlothian asked for expedited release from Mountain Peak's
4 CCN for its property that was not receiving water service. Over Mountain Peak's
5 assertions to the contrary, the City demonstrated that the Park was undeveloped farm land
6 and pasture that had never been platted and that was not actually receiving water service
7 from Mountain Peak; that the City had never requested water service to the Park from
8 Mountain Peak; no written service or extension agreement exists between the City and
9 Mountain Peak for water service to the Park; and that the City never paid Mountain Peak
10 any fees or charges, including tap fees, to initiate or maintain water service to the Park.
11 Our evidence also included my testimony that I had never observed or been made aware
12 of any work by Mountain Peak to extend service *to the Park* and, if it had any water
13 facilities near or adjacent to the Park, those facilities were installed and used to provide
14 service to properties *other than* the Park. The Commission applied relevant law and
15 agreed with the City of Midlothian, the landowner petitioning to be taken out of
16 Mountain Peak's CCN. In *this* proceeding filed on July 1, 2016, Midlothian is trying to
17 follow the expedited statutory process to provide retail water service at the Park, which
18 would require payment of compensation for property of Mountain Peak rendered useless
19 or valueless as a result of the decertification. As such, this docket is simply the next step
20 in the opening of the regional park approved by voters in 2006. However, Mountain
21 Peak is apparently asserting that some significant portion of its water system property has
22 been rendered "useless or valueless" under TWC § 13.254(d), which seems to contradict
23 the Decertification Order's conclusions. It is also contrary to my experience and
24 knowledge as a manager/operator of the City's water distribution system.

25 **Q: Did you oversee the City's preparation of the Notice of Intent to Provide Water**
26 **Service filed on July 1, 2016 ("Notice") that initiated this docket?**

27 A. Yes, I did. A true and correct copy of the City's Notice appears as Item No. 1 on the
28 PUC's Interchange under the following link, as of the date of January 17, 2017:

29 http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/46120_1_901285.PD

30 F.

1 **Q. Independent of the Decertification Order, based on your professional knowledge**
2 **and experience operating a retail water system, and on your review and knowledge**
3 **of Mountain Peak’s water facilities, do you have an opinion of whether any of**
4 **Mountain Peak’s property could have been rendered useless or valueless as a result**
5 **of the Decertification Order of May 1, 2015?**

6 A. Yes.

7 **Q. Can you please state your opinion?**

8 A. None of Mountain Peak’s property has been rendered useless or valueless as a result of
9 the Decertification Order of May 1, 2015. Not only has no water service ever been
10 provided by Mountain Peak to the Park, nothing I have reviewed in this docket credibly
11 demonstrates that Mountain Peak committed or used any property in furtherance to serve
12 the Park. According to Mountain Peak, their retail water service area was about 100
13 square miles, excluding the Park, an area of approximately 0.15 square miles. Mountain
14 Peak’s facilities or property were every bit as “used and useful” in providing its
15 customers service *after* decertification of this unplatted farmland as they were on the day
16 *before* decertification. Despite Mountain Peak’s assertions to the contrary, nothing was
17 made useless or valueless based on decertification under TWC § 13.254(a-5) and (a-6).

18 **Q. Does this conclude your prefiled direct testimony?**

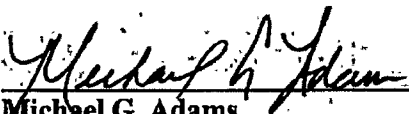
19 A. Yes.

AFFIDAVIT OF
MICHAEL G. ADAMS

STATE OF TEXAS
COUNTY OF ELLIS

MICHAEL G. ADAMS first being sworn on his oath, states:

My name is Michael G. Adams. I am the witness identified in the preceding testimony. I have read the testimony and any accompanying exhibits that I sponsor, and I am familiar with their contents. Based upon my personal knowledge, the facts stated in my testimony are true and correct. In addition, in my judgment and based upon my professional experience, the opinions and conclusions stated in the testimony are true, valid and accurate.



Michael G. Adams

SUBSCRIBED AND SWORN TO before me this 17th day of January 2017 by
MICHAEL G. ADAMS.

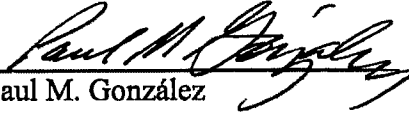




Notary Public, State of Texas
My Commission Expires 6-10-19

CERTIFICATE OF SERVICE

I hereby certify that on this, the 17th day of January 2017, a true and correct copy of the above and foregoing document was served by electronic mail to the persons on the service list:


Paul M. González

INFORMATION ABOUT THE ELECTION

When is the election?

Saturday, May 13, 2006
7:00 AM - 7:00 PM

What is the deadline to register to vote?

Last day to Register to vote is April 12, 2006. City residents must be registered to vote 30 days prior to the election. Contact the Ellis County Voter Registrar's Office at 972-923-5195.

Who can vote?

Qualified voters who reside within the City Limits of Midlothian, Texas.

Where do I vote?

Midlothian Conference Center
1 Community Circle
(off Mt. Zion Rd. next to the new Navarro College).

When is early voting?

Monday, May 1, 2006 8:00 AM - 5:00 PM
Tuesday, May 2, 2006 8:00 AM - 5:00 PM
Wednesday, May 3, 2006 8:00 AM - 5:00 PM
Thursday, May 4, 2006 7:00 AM - 7:00 PM
Friday, May 5, 2006 8:00 AM - 5:00 PM
Monday, May 8, 2006 7:00 AM - 7:00 PM
Tuesday, May 9, 2006 8:00 AM - 5:00 PM

No Saturday, Sundays or holidays

Where is early voting?

Midlothian Conference Center
1 Community Circle
(off Mt. Zion Rd. next to the new Navarro College)

MIDLOTHIAN CITY COUNCIL WANTS EVERYONE TO BE WELL-INFORMED ABOUT THE ELECTION. THERE ARE PROJECT DESIGNS ON DISPLAY AT THE DEVELOPMENT SERVICES DEPARTMENT, 100 W. AVENUE F, FOR YOUR REVIEW. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE DEVELOPMENT SERVICES DEPARTMENT AT (972) 775-7152 OR VISIT OUR WEBSITE AT WWW.MIDLOTHIAN.TX.US

DELIVER BY: APRIL 10, 2006

PRESORTED
STANDARD
U.S. POSTAGE PAID
MIDLOTHIAN, TX 76065
PERMIT NO. 40

Register to Vote by April 12, 2006
Call: (972) 923-5195

City of Midlothian
104 W. Avenue F
Midlothian, TX 76065



**CITY BOND ELECTION
INFORMATION**

PROPOSITIONS

ONE, TWO, THREE & FOUR

SATURDAY, MAY 13, 2006



VOTE!!

www.midlothian.tx.us

**EXHIBIT
MA-1**

Why is a bond election being called?

A Bond Election is the means by which City Residents authorize City Council to issue bond debt to construct and improve public facilities such as parks, roads, fire stations, and Downtown/ Original Town streets. On *Saturday May 13, 2006*, Midlothian residents will have the opportunity to vote on four separate initiatives intended to improve Midlothian's infrastructure and public facilities:

Proposition 1: Roadway Construction - \$15,475,000

Residential and commercial growth has created the need for improved traffic flow through the City and better access to State highways and major thoroughfares. The roadway project list was selected by the City Council and Citizen's Planning Group to provide improved safety and access for the entire Midlothian community; however, this list will especially address the needs of the following neighborhoods based on proximity and travel patterns (see map):

- Creekbend Estates, Somerset, Sunshine Place
- Longbranch, Meadows at Longbranch, Twin Creeks
- Park Place, Mockingbird Estates
- Ridgeview, Midlothian Meadows, Hunters Glen

Proposition 2: Roadway Beautification - \$2,660,000

This proposition will authorize funding for street beautification in the Downtown and Old Town areas, as well as entryway signage projects. These projects are designed to enhance Midlothian's historical character and identity.

Proposition 3: Parks - \$13,925,000

This proposition would fund approximately three miles of paved hike-bike trails and the purchase of approx. +/- 75 additional acres of neighborhood and community parks. Additionally, this proposition would fund major improvements to Walter Stephenson and Mt. Peak Parks, which are located nearby to the Ridgeview/ Midlothian Meadows/ South Park and Hillcrest/ Valley View/ Fox Run neighborhoods, respectively. In addition, because Midlothian's sports programs serve a rapidly growing number of members (over 1,500 at this time), this proposition would also enable the purchase and initial development of a +/- 125 acre multipurpose community park that would serve as the City's new home for soccer, baseball and football, in addition to providing picnic areas, trails, a splash park, restrooms, etc.

Proposition 4: Fire Facilities - \$1,690,000 (Described herein)

How will the bond money be spent and what is the impact?

2006 PROPOSED ROADWAY PROJECTS

PROPOSITION NO. ONE

Roadway Improvements - Total: \$15,475,000

The Roadway Bond Program will help relieve traffic congestion, improve the safety of the traveling public and provide the Citizens of Midlothian with an improved roadway system in and around the City.

- ◆ Mt. Zion Road - Widening - Midlothian Parkway to Creekbend Drive - 2 lanes
- ◆ U.S. 287 Connection - New Road - U.S. 287 Bypass to existing U.S. 287 - 2 lanes
- ◆ F.M. 1387 - Intersection realignment to eliminate the S-curve at Walnut Grove Road. *City share of a joint project with TxDOT and M.I.S.D.
- ◆ Mockingbird Lane - Widening - Onward Road to Walnut Grove Road - 2 lanes
- ◆ Walter Stephenson Road - Widening - U.S. 287 Bypass to South 5th Street - 2 lanes
- ◆ Mt. Zion Road Railroad Crossing - Rehab railroad crossing @ Union Pacific Tracts
- ◆ Sudith Lane - Widening - Mount Zion Road to Sunbeam Court - 2 lanes
- ◆ Walnut Grove Road - Reconstruction - FM 1387 to U.S. 287 - 2 lanes

PROPOSITION NO. TWO

Roadway Improvements / Beautification - Total: \$2,660,000

The roadway improvement/beautification program will help enhance our historical downtown area and our gateway entrances into the City.

- ◆ West Avenue F - North 8th Street to Overlook Drive- Overlay with concrete ribbon curbs, antique street lighting, street trees and other associated improvements
- ◆ North 8th Street - West Avenue F to West Main Street - Streetscaping, antique street lighting and other associated improvements
- ◆ Gateway Entrances (2) - East and West 287 - Monument signs, landscaping and other associated improvements

2006 PROPOSED PARK FACILITIES PROJECTS

PROPOSITION NO. THREE

Parks - Total: \$13,925,000

The Park Facilities Bond Program will provide the Citizens of Midlothian with an improved park system in and around Midlothian.

- ◆ Walter Stephenson Park - Picnic shelters, playground & parking lot
- ◆ Multi-Use Community Park - +/- 125 acres, trails, picnic pavilion, splash park, playgrounds, football, soccer & baseball fields, basketball & tennis courts, concession stands/restrooms (concept)
- ◆ Park Land Acquisition/Improvements - Purchase +/- 75 acres for future neighborhood parks (5-7 sites) and improvements to playgrounds
- ◆ Trail System - Citywide recreational trails (+/- 3 miles)
- ◆ Mt. Peak Community Park - Playground facility, picnic pavilion, softball & soccer fields, basketball court, landscaping and shade trees (concept)

2006 PROPOSED FIRE FACILITIES PROJECT

PROPOSITION NO. FOUR

Fire Facilities - Total: \$1,690,000

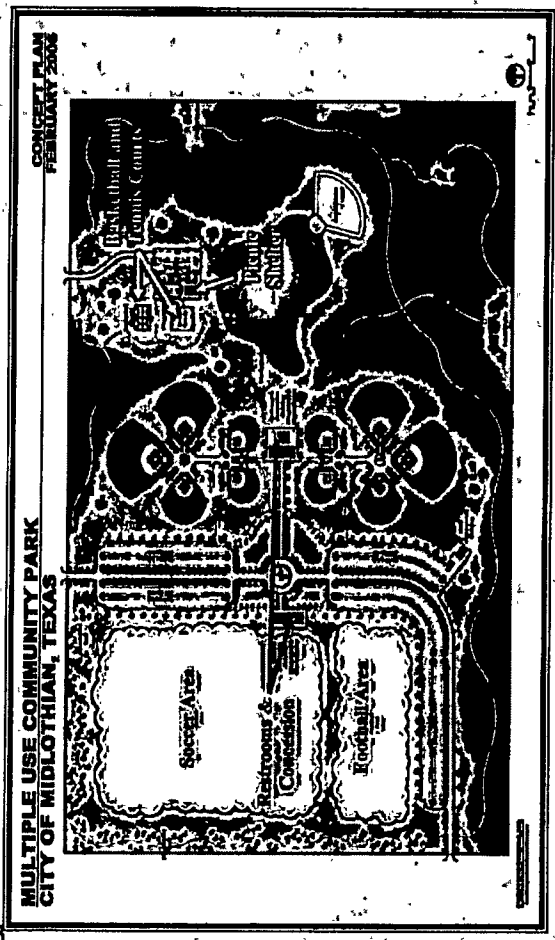
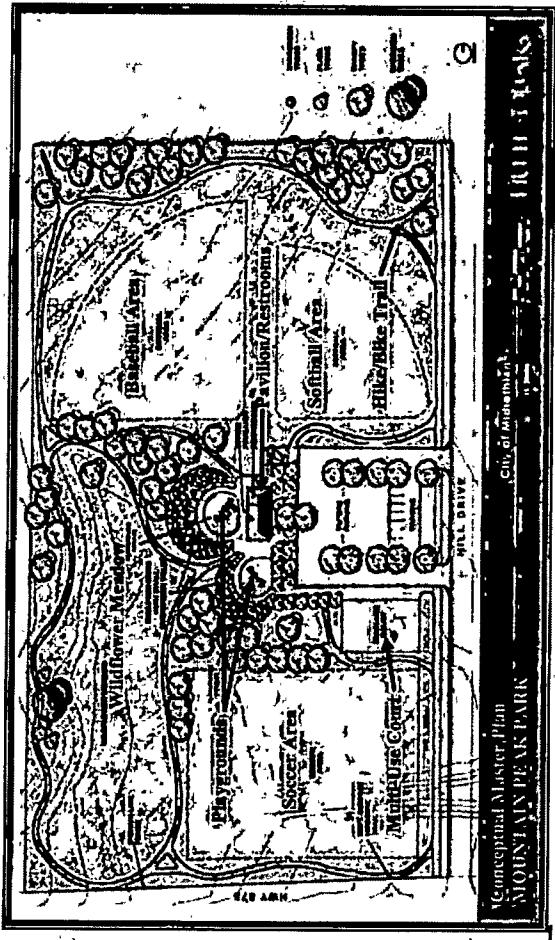
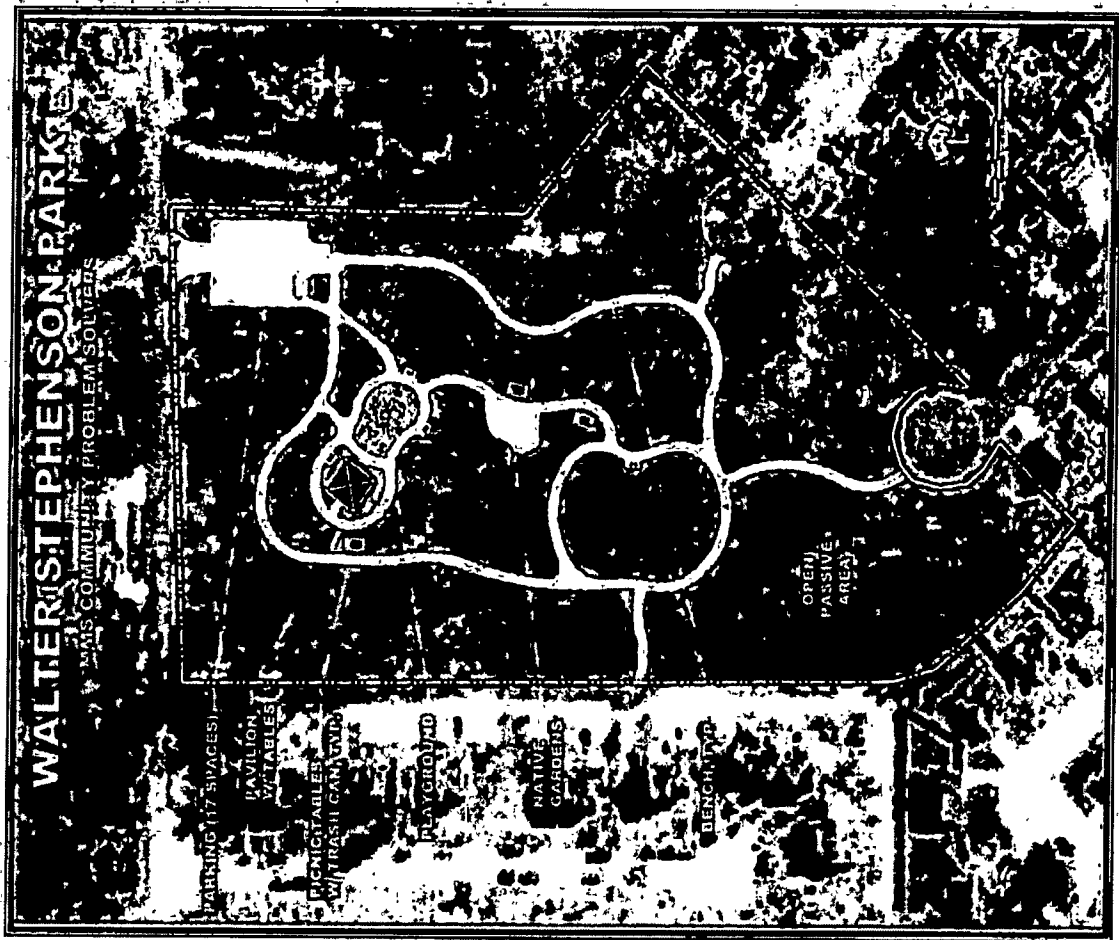
The Fire Facilities Bond Program will modernize and improve Station One (Downtown) and provide needed increase in training and storage area.

- ◆ Reconfiguration & Expansion of Fire Station #1 - Renovation and expansion of existing N. 8th Street Fire Station #1

FINANCIAL IMPACT OF PROPOSITIONS ONE, TWO, THREE & FOUR

Anticipated growth is expected to finance a large portion of this program; however, a tax rate increase of approximately nine (9) cents may be assessed in various increments over the next +/-five years. The table below lists the estimated amount of new property taxes that might result from full funding of all 4 propositions:

Property Value	Monthly Increase	Yearly Increase	Potential
\$100,000	\$7.50	\$90.00	\$90.00
\$150,000	\$11.25	\$135.00	\$135.00



PUC DOCKET NO. 44394

PETITION OF CITY OF MIDLOTHIAN	§	BEFORE THE
TO AMEND MOUNTAIN PEAK	§	
SPECIAL UTILITY DISTRICT'S	§	
CERTIFICATE OF CONVENIENCE	§	PUBLIC UTILITY COMMISSION
AND NECESSITY BY EXPEDITED	§	
RELEASE IN ELLIS COUNTY	§	OF TEXAS

SECOND SUPPLEMENTAL AFFIDAVIT OF RANDEL KIRK

STATE OF TEXAS §
COUNTY OF ELLIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Randel Kirk, who being by me duly sworn, on his oath deposed and testified as follows:

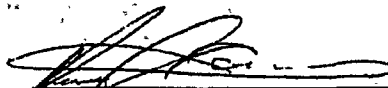
1. "My name is Randel Kirk. I am of sound mind, over 21 years of age, and am in all other respects competent to make this affidavit. The facts herein contained are true and correct and are based on my own personal knowledge.
2. I am the General Manager for Mountain Peak Special Utility District ("Mountain Peak"). I began my employment with Mountain Peak on February 3, 1988, and have worked there ever since.
3. In my role as General Manager, I am familiar with Mountain Peak's water system infrastructure, federal debt obligations, district boundaries, the district's certificate of convenience and necessity number 10908 ("CCN"), and our agreements with, and cooperation with, the City of Midlothian. I have also reviewed the City of Midlothian's Petition for Expedited Release Dated January 27, 2015, which pertains to a 104.356 acre tract (the "Park Property"), and Midlothian's amended petition filed on March 11, 2015, which pertains to a 97-acre portion of the Park Property (the "Amended Park Property") which the City of Midlothian seeks to remove from Mountain Peak's CCN. Mountain Peak's CCN, issued by a predecessor to the Public Utility Commission, authorizes Mountain Peak to provide water service in its certificated service area and triggers its statutory duty to provide continuous and adequate service in its area.
4. Mountain Peak is currently a borrower of funds from, and indebted to, the United States of America on two debt instruments through the United States Department of Agriculture, Agriculture Rural Utilities Services. Attached hereto as Attachment 1 is a true and correct copy of the Utility Security Instrument Real Estate Deed of Trust for Texas evidencing those loans. The loans identified in Attachment 1 remain outstanding, and Mountain Peak continues to make payments on those loans.
5. Mountain Peak is currently providing water service to the Park Property and that water is potable and of a quality useable for human consumption or household use. A two-inch waterline currently connects to one of Mountain Peak's twelve-inch waterlines and runs to a lift station located on the Park Property ending with an angle-stop valve in a meter box.

6. Mountain Peak currently has a six-inch waterline which traverses the southern boundary of the Amended Park Property and is located on the Amended Park Property, not in the public right-of-way. This line has the capacity available to serve the Amended Park Property.

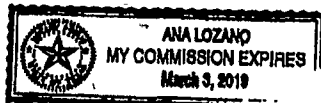
7. Mountain Peak has constructed and furnished distribution lines and other facilities near the Amended Park Property with the capacity to provide water service to the property, including distribution lines, storage tanks, and pump stations. A nearby subdivision has multiple distribution lines, including the twelve-inch line from which the two-inch line connecting to the lift station extends. Specifically, Mountain Peak owns and operates three twelve-inch waterlines within 0.011 miles of the Amended Park Property, two eight-inch waterlines within 0.03 miles of the Amended Park Property, four six-inch waterlines within 0.07 miles of the Amended Park Property, numerous smaller waterlines near and adjacent to the Amended Park Property, and two water plants within 0.87 miles of the Amended Park Property, in addition to other water plants to serve other parts of its CCN. Water Plant No. 8 has a well pump with a capacity of 650 gallons per minute ("GPM") and a 1,000,000 gallon ground storage tank. The storage tank was originally planned to be 500,000 gallons, but it was increased to 1,000,000 gallons in response to potential development on and near the Park Property and Amended Park Property. It is 0.87 miles from the Amended Park Property and has capacity available to serve development at the Amended Park Property. Water Plant No. 2 has a well pump capacity of 250 GPM and a 210,000 gallon ground storage tank. It is 0.68 miles from the Amended Park Property and has the capacity to serve the Amended Park Property. These facilities are all located within 0.87 miles of the Amended Park Property, have sufficient capacity to serve development within the area of the Amended Park Property, and have capacity committed to the Amended Park Property.


8. Mountain Peak has also developed and furnished water supplies, including five groundwater wells all within 2.34 miles of the Amended Park Property which could be used to serve the Amended Park Property. Two recently constructed groundwater wells in the Woodbine Aquifer are within 1.2 and 0.7 miles of the Amended Park Property and have pump capacities of 150 GPM and 200 GPM, respectively. Mountain Peak has invested in water supplies sufficient to serve its customers in the area, including the Amended Park Property. Mountain Peak is committed to serving all customers within its service area."

"Further Affiant sayeth not."


Randel Kirk

Subscribed and sworn to before me, the undersigned authority, on this 16th day of March 2015 to certify which witness my hand and seal.




NOTARY PUBLIC for and by
THE STATE OF TEXAS

My commission expires: 3/3/19