

RESOLUTION NO. 2019-R13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS DENYING CONSENT TO THE CREATION OF KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3, 3A, 3B AND PETITIONS FILED FOR THE CREATION OF WCID NO. 3, 3A, 3B AND ANNEXATION OF APPROXIMATELY 42 ACRES INTO THE WCID'S AND PROVISION OF CITY WATER AND SEWER SERVICES TO THE WCID NO. 3, 3A, AND 3B AS REQUIRED BY SPECIAL DISTRICT LOCAL LAWS CODE CHAPTER 9072.004 (SENATE BILL 914, 85TH LEGISLATIVE SESSION EFFECTIVE June 9, 2017)

WHEREAS, Boernebak II, LLC ("Boernebak") has purchased approximately 2055 acres of land described in Exhibit "A" attached hereto (the "Tract") located in Kendall County, Texas and partially located within the City's Extraterritorial Jurisdiction ("ETJ"); and

WHEREAS, Kendall County Water Control and Improvement District No. 3 was created pursuant to Senate Bill 914, 85th Legislature, Regular Session (to be codified in Special Districts Local Laws Code Ann. Chapter 9072) in accordance with Article XVI, Section 59, and Article III, Section 52, of the Constitution of the State of Texas and contains approximately 1055 acres;

WHEREAS, said Special District Local Laws Chapter 9072.004 and Senate Bill 914 require the consent of (City of Boerne) each municipality in whose corporate limits or extraterritorial jurisdiction (ETJ) the district is located, to the creation of the district and to the inclusion of the land in the district which is approximately 332 acres and 42 acres annexation tract;

WHEREAS, Kendall County Water Control and Improvement District No. 3A (the "District") was created by that certain Order Dividing Kendall County Water Control and Improvement District No. 3 into the Kendall County Water Control and Improvement District No. 3B;

WHEREAS, Boernebak is requesting the City's consent to the creation of the District over the boundaries of the Tract, the annexation of the Annexation Tract into the District, and water and sewer service to the Tract and the Annexation Tract, all as evidenced by the Petitions attached hereto as Exhibit "A";

WHEREAS, Boernebak has proposed a development agreement, the City has provided a counter-offer to the proposed development agreement and Boernebak has stated that they have no desire to negotiate the terms of the proposed development agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE:

Section 1. The facts and recitations set forth in the preamble of this Resolution are hereby found to be true and correct and incorporated herein for all intents and purposes.

Section 2. The City Council of the City hereby specifically DENIES written consent to: a) creation of the Kendall County Water Control and Improvement District No.

3, 3A, 3B (District) over the Tract; b) annexation of the (approximately 42 acres) Annexation Tract into the District; and c) provision of water and sewer service to the District (Tract and Annexation Tract) by the City.

Section 3. The Parties have been unable to negotiate an adequate development agreement that addresses the: a) approval, construction and inspection of facilities that will serve the District and the Tract; b) terms and provisions of the District's bonds and notes; and c) the increased service needs by the City due to the District.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551, Texas Government Code; and that this meeting had been open to the public as required by law at all times during which this Resolution and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. This Resolution shall become effective from and after the date of its final passage, and it is accordingly so resolved.

PASSED, APPROVED, AND ADOPTED this ___ day of February, 2019.

APPROVED:

Mayor

ATTEST:

City Secretary