

# Facts, please...

By Neighbors Promoting Truth

*Presented by Shawna Lawry*

# To Incorporate or Not to Incorporate?

The citizens of Pecan Plantation should not make decisions regarding incorporation based upon fear, or as an act of defense.

They should consider whether or not incorporation will provide a higher level of services and quality of life for residents.

That is the purpose of forming a city.

# Topics To Be Addressed

- How did we arrive at our current situation?
- Does Granbury pose an actual threat?
- What threat does incorporation present under a “No Service City” plan?
- Will the proposed ballot measure for incorporation be beneficial for the citizens of Pecan Plantation?

# PPOA Incorporation Committee Resolution

## Resolution:

To establish a committee to study the municipal incorporation of PPOA

Whereas a comprehensive study of Incorporation was completed several years ago, the PPOA Board of Directors realizes that enormous changes have taken place in Hood County since the completion of that study

and Whereas any decisions involving Municipal Incorporation must be based upon the most current information available. The Board of Directors believes it is in the best interest of the community to conduct a new comprehensive study on Municipal Incorporation.

and Whereas to provide the membership with the most comprehensive, unbiased and timely study possible, a Committee is needed. This Committee will be established immediately upon the approval of this Resolution. The Committee to Study Municipal Incorporation will gather data to research and develop the positive and negative aspects of PPOA Municipal Incorporation.

and Whereas at the conclusion of the study, the Board of Directors will make an informed decision regarding Municipal Incorporation and communicate their decision to the community, the Board of Directors understands and appreciates that the ultimate decision to Incorporate or to not Incorporate as a Municipality is not a decision to be made by the PPOA Board of Directors, but rather a decision to be made by the voters of PPOA. To assure that the study is as unbiased as possible, the Committee to Study Municipal Incorporation will have the support and guidance of the Board of Directors when requested but the committee will have the freedom to operate independently.

Therefore, the PPOA Board of Directors do hereby resolve to establish the Committee to Study Municipal Incorporation.

The Committee is charged with but not limited to the following responsibilities

1. Research and develop a comprehensive study to include the positive and negative aspects of PPOA Municipal Incorporation.
  2. Report those findings to the Board so that an informed decision can be made by the Board of Directors to support or not support Municipal Incorporation
- With or without the support of the Board for Municipal Incorporation, the committee will conduct Town Hall meeting(s) and mailing(s) to communicate to the membership the findings of the study.
  - At the conclusion of the study, the committee will cease to exist.

Approved by the Board of Directors as amended on February 4, 2010.



# What was the Incorporation Committee *supposed* to do?

- Research and develop a comprehensive study of various model city plans.
- Report the “pros” and cons” of each.
- Conduct informational Town Hall meetings for general membership knowledge, discussion, and feedback.

# What *did* the leadership of the Incorporation Committee do?

- Used the research into various model cities and selected the one they wanted on the ballot without member input.
- Reported to only PPOA Board of Directors.
- Urged some members to sign a petition to put the model city they selected onto the ballot by claiming annexation by Granbury was an immediate threat.
- Limited our choices for our city.

With the filing of the incorporation petition prior to input from the majority of the community, decisions were made for us regarding:

- Type of city incorporation “Type B”
- Level of services to provide “No Service”
- Boundaries of city “peninsula only”
- Exclusion of valuable commercial property
- The name of the city was chosen without input from the future citizens.

# The Tall Tale

“We had to file the petition to incorporate to defend Pecan Plantation from the threat of annexation by the City of Granbury.”

*- Mr. Gary Guffey, former PPOA BOD President  
and current employee of the developer  
in address at PPOA BOD meeting 08/05/2010*

# The Real Deal

- 1) There is NO real threat of annexation by the City of Granbury.
- 2) The petition filed to place incorporation on the ballot for a vote does NOT create a bubble of protection for Pecan Plantation.



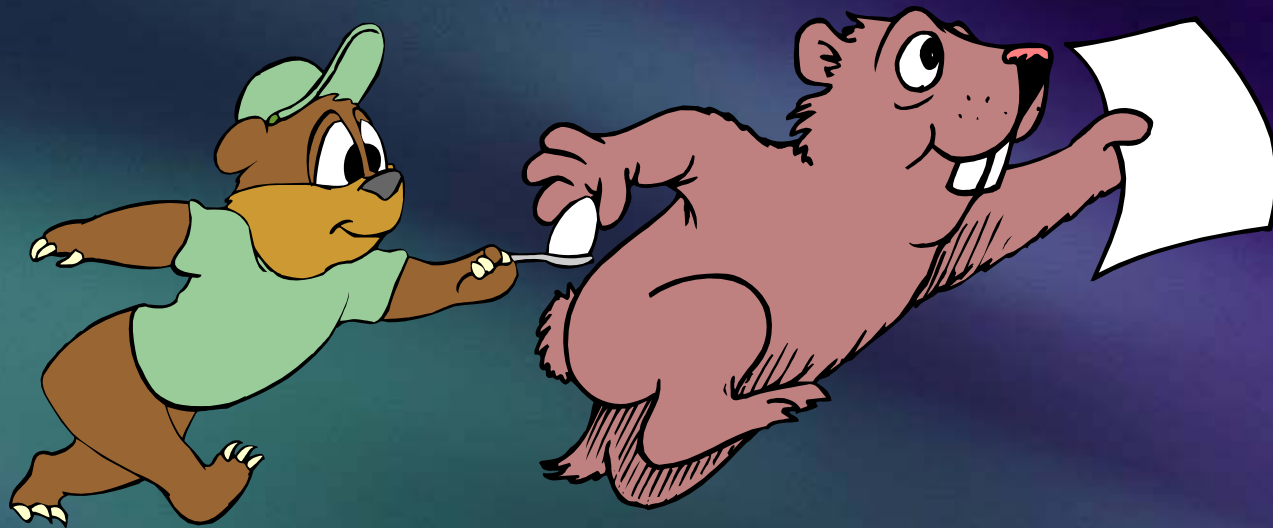
# To Incorporate or Not to Incorporate?

Question is not so simple.

Question is really...

**To Incorporate or Not to Incorporate  
under the boundaries and model city  
proposed on the November 2 ballot?**

In the rush to file documents for incorporation decisions were made that may not be in the best interest of the citizens of Pecan Plantation.



OUR COUNTY SERVICES,  
PROPERTY VALUES, DUES AND TAXES  
ARE AT STAKE.

# TX Constitution - 2 Classes of Cities

## ● General Law

- May only exercise power granted by general law.
- Lower taxing authority.
- Voluntary annexation only.
- Divided into Type A, B, C depending upon population.

## ● Home Rule

- Self rule by Charter – Pop. 5000 or more.
- Looks to Legislature for limits to powers.
- Higher taxing authority.
- May annex land without property owner permission.

# Incorporation Terms

## ● Municipality

- City, town
- Incorporated with a defined boundary.
- Mayor and five Aldermen, or City Council.
- General Law Type B city is on Nov 2 ballot measure.

## ● ETJ

- Imaginary area surrounding incorporated boundaries.
- Size determined by population of city.
- City may only annex area in its ETJ. § 43.051



# Threat of Annexation by Granbury



Real?



# Threat of Annexation by Granbury



or Imagined ?

# Threat of Annexation by Granbury?

**Any annexation action towards Pecan Plantation by the City of Granbury is restricted by:**

- Maximum annual rate of growth through annexation
- 10 % /year with carryover up to 30% max. § 43.055
- Services must be provided to annexed areas. § 43.056
- Requirements for notifications and hearings. § 43.0561
- Requirements and costs of dealing with Municipal Utility Districts and CCN's. § 43.053
- Ability to annex densely populated areas such as Pecan Plantation. § 43.052

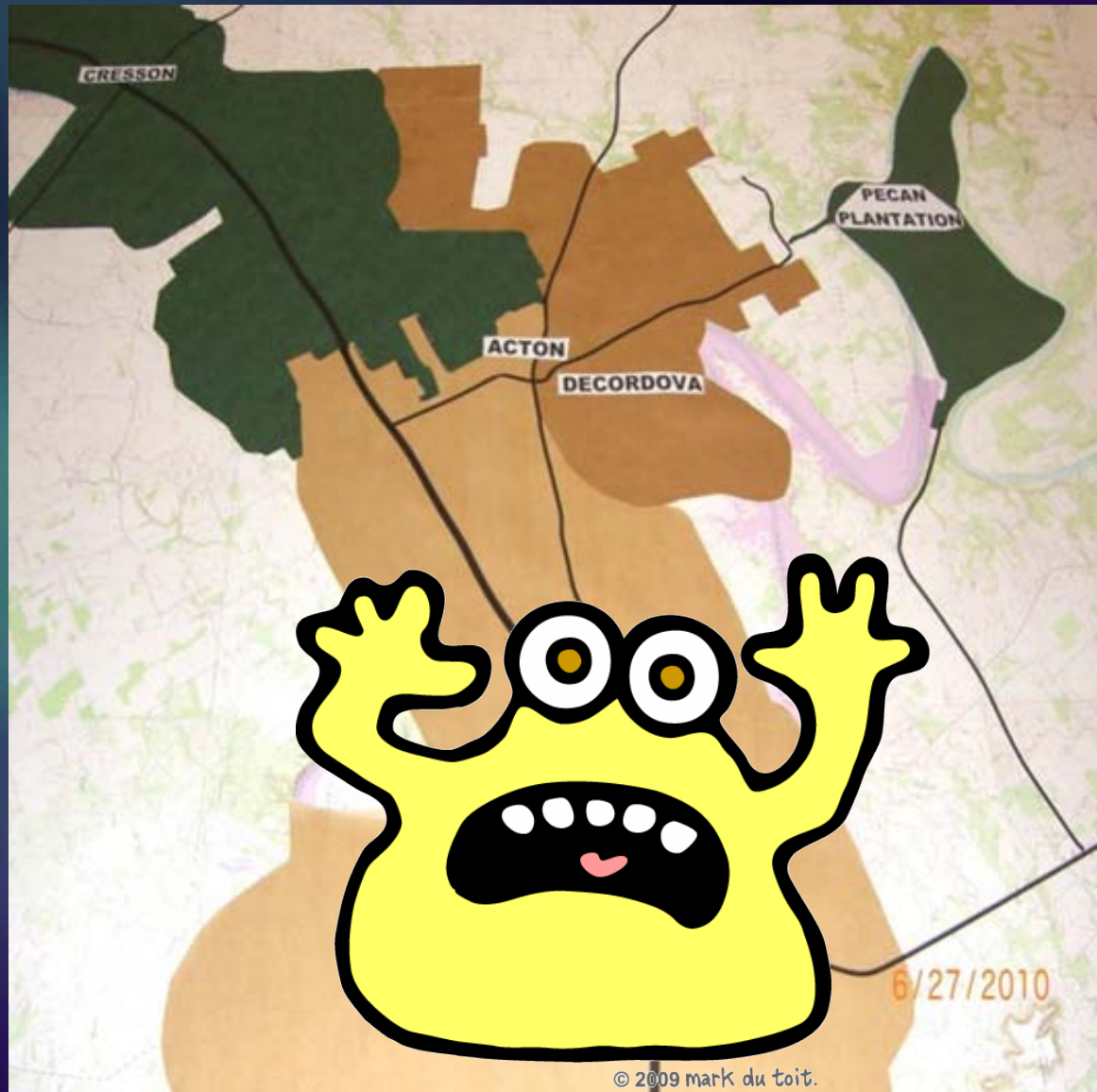
Claim : “Granbury has adopted an aggressive attitude in their annexation policies.” – *Incorporation Presentation*



# “Aggressive” Incorporation Map

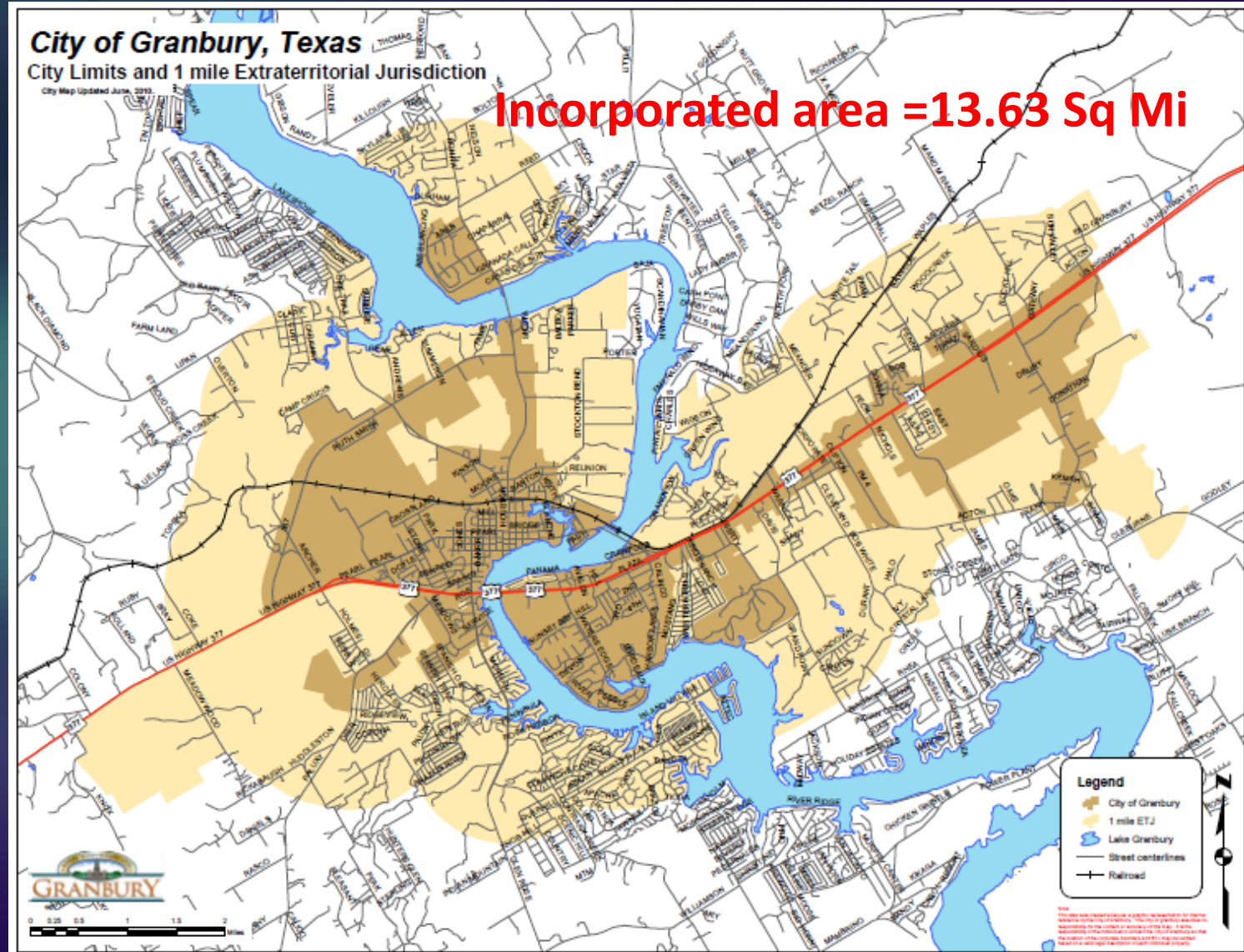


# “Aggressive” Incorporation Map





# City of Granbury Incorporation Map

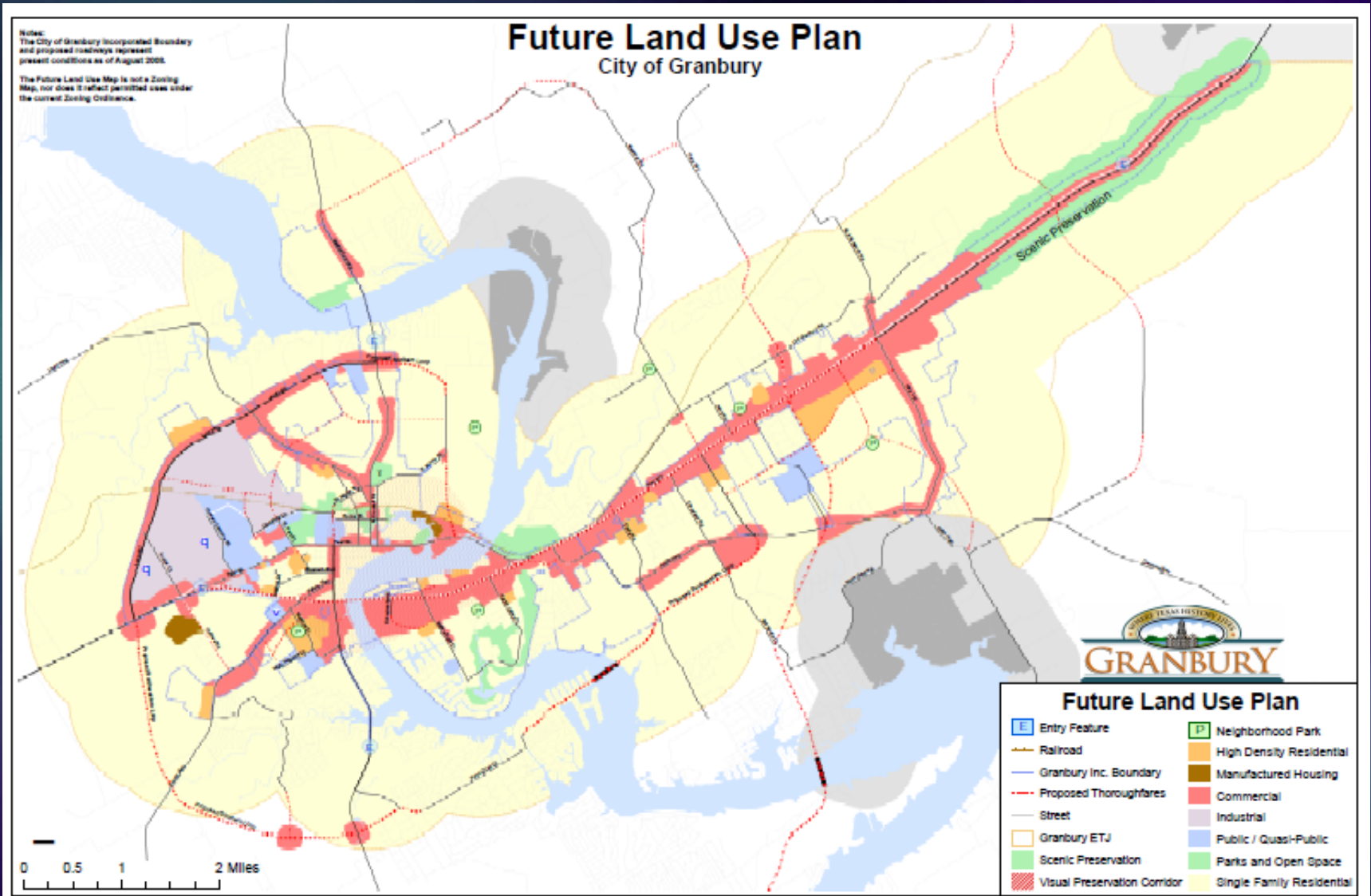


Claim : “Granbury has adopted an aggressive attitude in their annexation policies.” – *Incorporation Presentation*

## **Fact Check : Granbury has followed their Future Use Plan and made annexations in accordance with it.**

- DeCordova stood between Granbury and commercial / industrial land so their incorporation made sense.
- Annexation towards Cresson was planned for months in cooperation with Cresson and placed on the Future Use Map for all to see.
- Future growth plans by Granbury are stated in their Future Use Plan available online.

# City of Granbury Future Use Map





Claim : “Granbury can extend its municipal boundary to Pecan Plantation in one evening.” –

*Incorporation Report*

**Fact Check : Granbury cannot by law secretly discuss, or take secret action to annex land.**

*- prohibited by Texas Open Meetings Act*

**The complete annexation process cannot be done in one evening.**

*- prohibited by Texas Local Government Codes*

*§ 43.052 , § 43.053, § 43.056, § 43.0561*

# Annexation Requirements

- Annexation discussions and negotiations are prohibited in executive session meetings. *TOMA – Texas Open Meetings Act.*
- Service Plan required for proposed annexed area.  
*§ 43.056 Service Plan Required*
- 2 Public annexation hearings must be provided under  
*§ 43.0561 Annexation Hearing Requirements*
- Public notice of hearings must be provided 10 to 20 days in advance of hearings. *§ 43.0561*
- Notification of landowners, utility service providers, railroads and schools must be provided. *§ 43.0561*
- Notifications must be published on city's website and in a newspaper of general circulation. *§ 43.0561*



# Overview of Annexation Process

1. Resolution passed by City Council to direct staff to begin evaluation and formulate service plan.
2. Inventory and analysis of current services conducted and compared to similar areas already within city boundaries.
3. Requirement to continue services at same level or better compared to similar areas of the city dictates level of services to be provided to annexed area.
4. Notice of public hearing by publication 10-20 days prior.
5. Public hearing before city council.
6. Second public hearing 20 to 40 days prior to first reading of annexation ordinance.
7. Approval of annexation ordinance at open meeting.
8. Soft services must begin immediately. (police, fire, trash p-up)
9. Hard services must be completed within 2 ½ years, unless city can prove hardship, then 4 ½ years. (water, sewer, streets, etc.)

# Incorporation Terms

## ● Successive Annexation

- Is a procedure, not a “law”.
- Might be best compared to process of making rule change by PPOA BOD.
- As the annexation of each section is completed, the ETJ extends outward to encompass the next section.
- Cities still must comply with all statutes required of any annexation procedure.
- Notices, open hearings, and open meetings required.
- Service plans for provision of services to annexed areas are required. § 43.056
- **NO ANNEXATION PROCESS TAKES PLACE IN ONE NIGHT OR IN CLOSED EXECUTIVE SESSION.**

# Incorporation Terms

## ● First in Time Rule

- Old Common Law rule used prior to 1963.
- Caused problems with unchecked expansion of cities who failed to provide services to annexed areas.
- In 1963 the Texas legislature created the concept of ETJ's and overlapping ETJ's were addressed to eliminate use of "First in Time" rule. § 42.901
- Cities still dispute ETJ's that have been adjusted due to agreement or prior action, but ETJ takes precedent.
- **"First in Time" rule only applies to disputes between municipalities and has no bearing on a neighborhood petition for incorporation. So the petition has no effect in protecting PP from annexation.**

## § 43.052. MUNICIPAL ANNEXATION PLAN REQUIRED.

- 3 year annexation plan required for areas with 99 or more tracts of land with residences on them.
- § 43.052 (i) provides that the municipality may not circumvent the requirements of the 3 year plan by proposing to separately annex two or more areas which fall under the requirement of a 3 year annexation plan.
- Pecan Plantation may not be split up by any annexation procedure. It must be provided with a 3 year plan, and any annexation must be done “as a whole.”



## § 43.055. MAXIMUM AMOUNT OF ANNEXATION EACH YEAR.

- Maximum allowable annexation limited to 10% per year with carryover up to maximum of 30% in 3 years.
- Granbury is currently 13.63 Sq. miles of incorporated boundary. 30% limit is 4.09 Sq. miles = not large enough to annex Pecan Plantation whole. (PP=7 Sq. Mi.)
- Pecan Plantation may not be split up by any annexation procedure per § 43.052. It must be provided with a 3 year plan, and any annexation must be done “as a whole.” Granbury must grow to 21 Sq. Miles in size before any annexation of Pecan Plantation is possible.

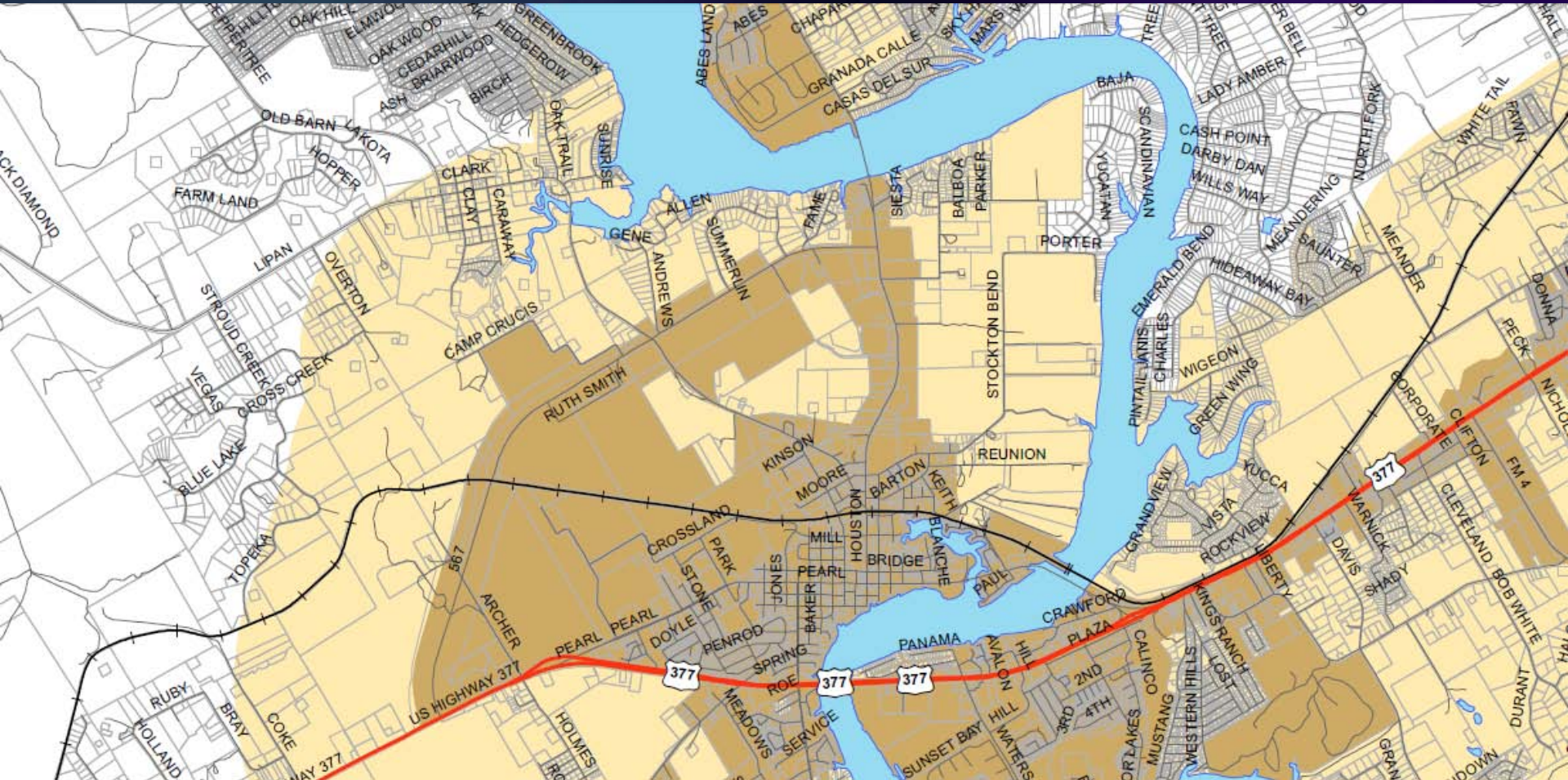
Two important questions to consider concerning Granbury Annexation...

**1. Is there any reason for City of Granbury to want to annex Pecan Plantation?**

**2. Is it possible for the City of Granbury to annex Pecan Plantation ?**



# City of Granbury Incorporation Map



Numerous residential neighborhoods are available for immediate annexation by the City of Granbury.

Why spend millions to annex all the way to Pecan?

Claim : Granbury wants to annex Pecan Plantation for their potential tax revenue.

**Fact Check : Granbury has no interest in the annexation of Pecan Plantation because it would cost too much to annex & provide required services.**

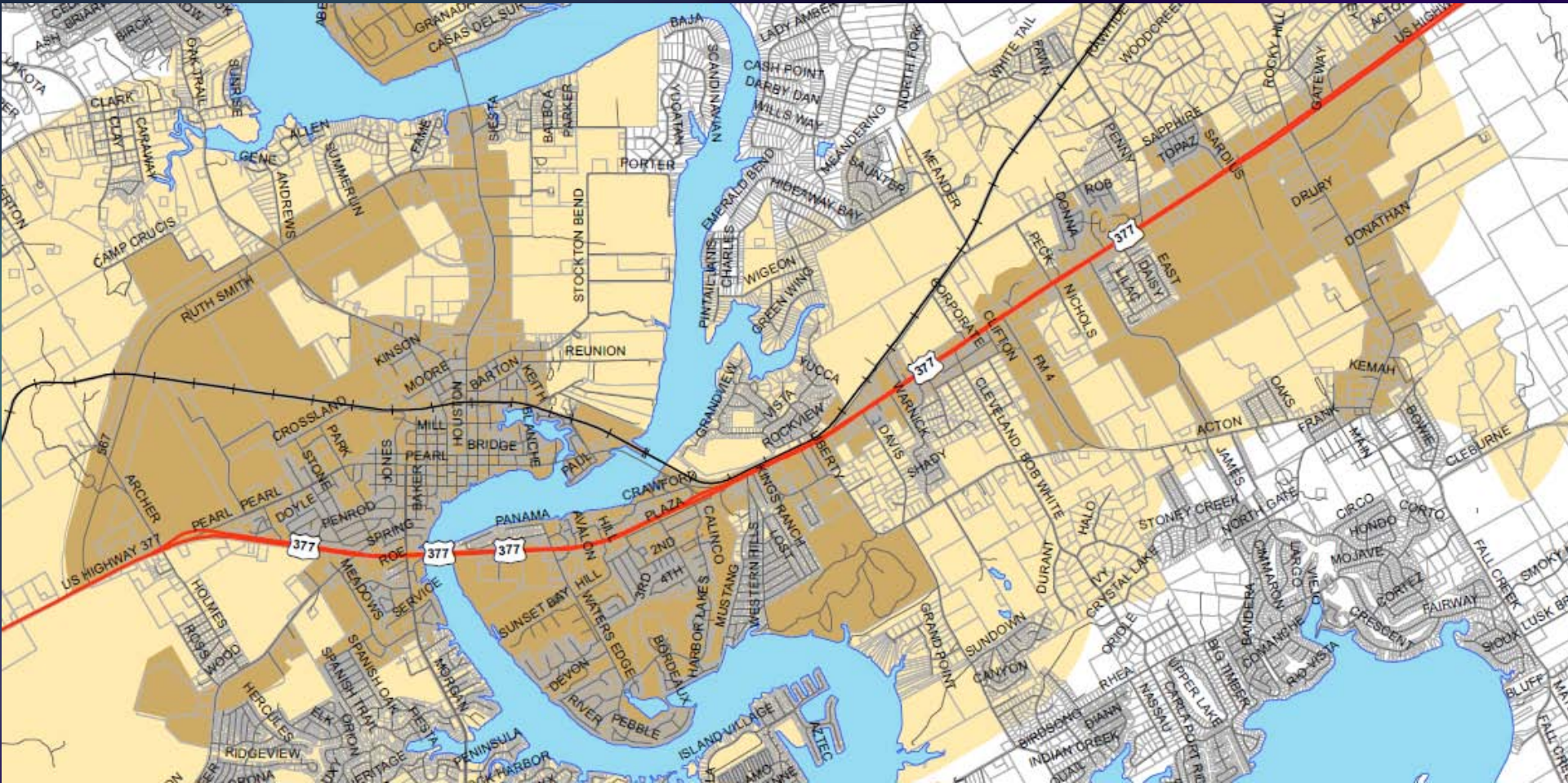
- Granbury has numerous residential communities already within their ETJ that they could annex easily, if desired.
- They do not want to annex “rooftops” because residential property is expensive to annex.
- The process of annexation itself requires a great amount of **MONEY** to pay for “hard services.”



## So if the City of Granbury does not want to annex houses, then what do they prefer to annex?

- Annexation history is along commercial corridors.
- Commercial property generates more tax \$\$\$ and does not require as many services.
- Developers and cities often enter into agreements allowing the city to reimburse a commercial developer over time through tax rebates for infrastructure the developer installs such as water lines, sewer lines and roads. (Example HEB)

# City of Granbury Incorporation Map



Current incorporated boundaries of the City of Granbury are centered around commercial corridors.



So what's the big "show stopper" keeping the City of Granbury from annexing any land even near Pecan Plantation?



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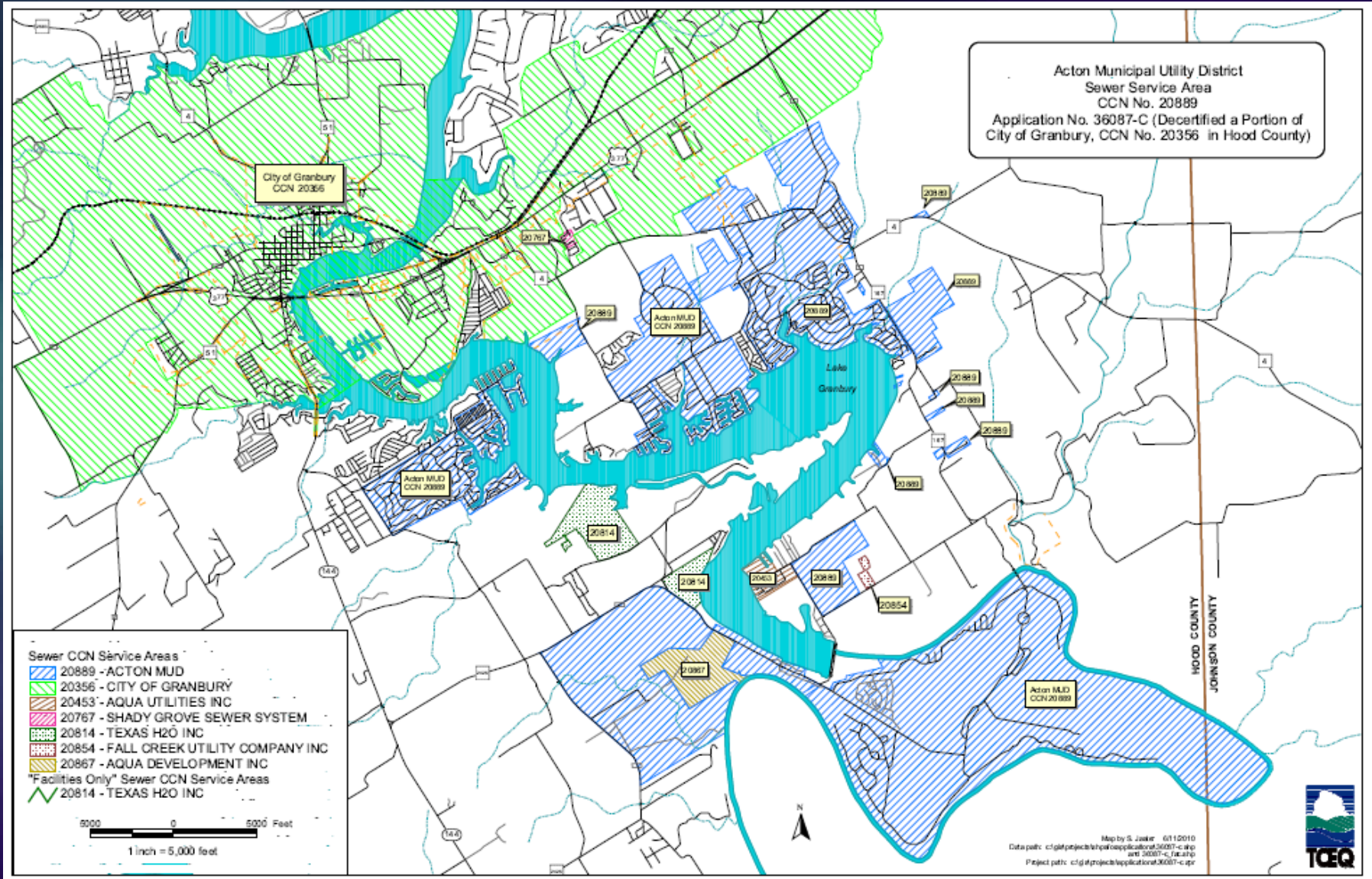
Granbury Taxpayers



# Municipal Utility District (MUD)

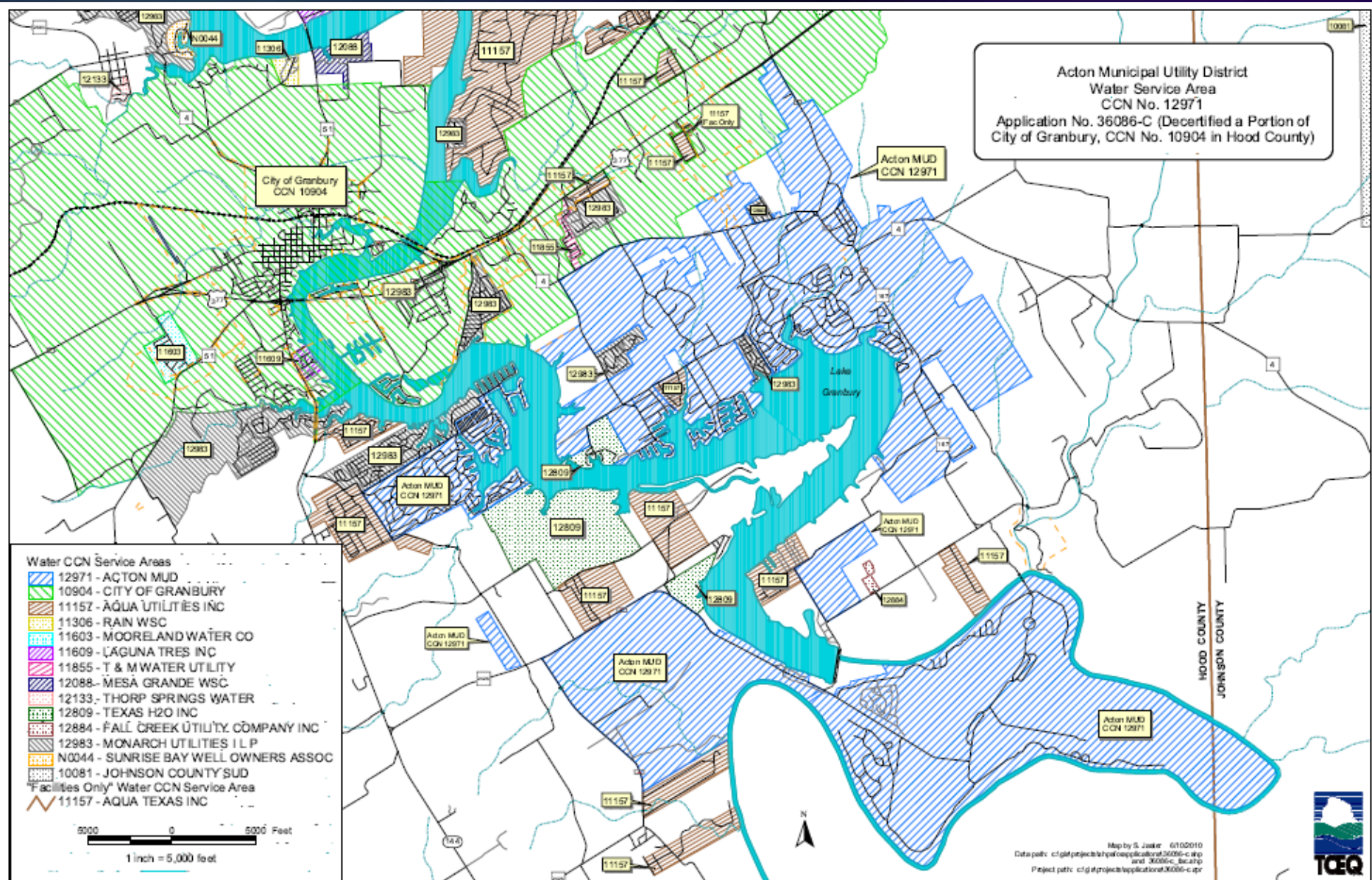
- When an area is annexed, the city must upgrade the infrastructure to meet the standards of the city  
Example upgrade from 2" pipes to 8" pipes and provide water storage tanks and sewer lift stations.
- If a city annexes a small water or sewer Municipal Utility District, it must assume any debt of the MUD.
- Terrain presents a problem for installing and maintaining water and sewer lines economically for Granbury.
- Annexing down 144 and Mambrino Hwy would be extremely expensive for Granbury.

# Municipal Utility District - Sewer



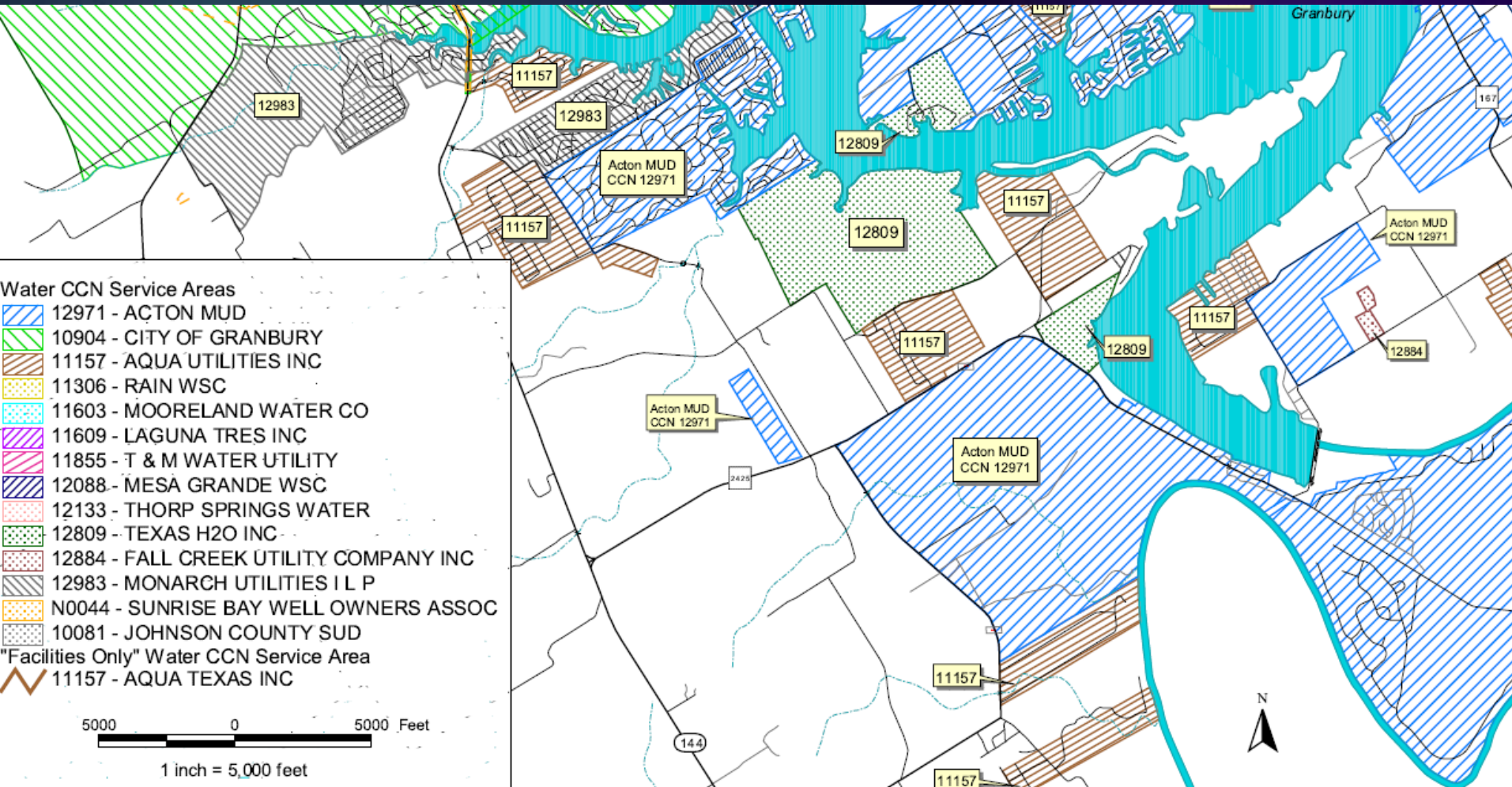


# Municipal Utility District - Water



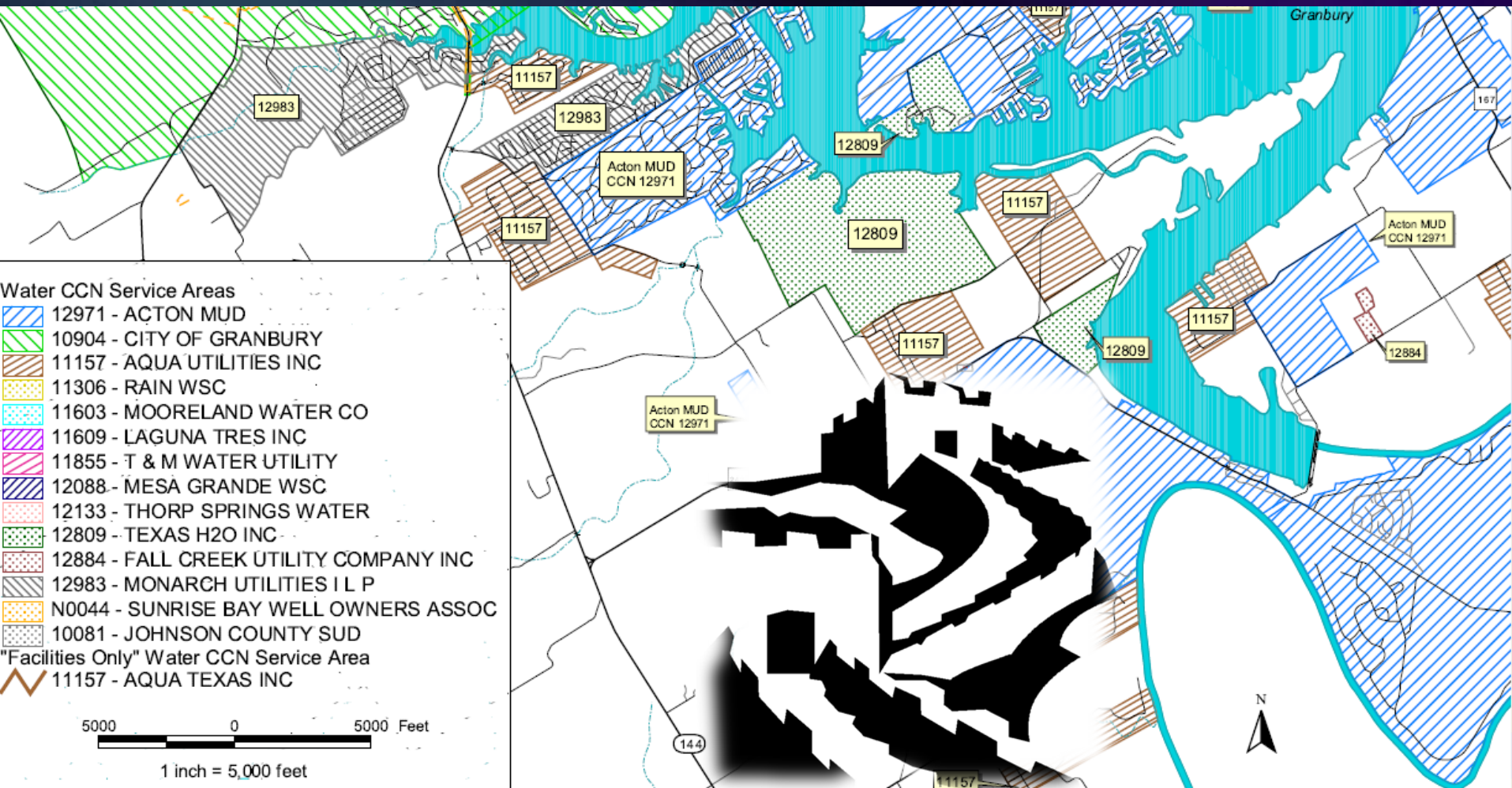


# Municipal Utility District – Water (close up)





# Municipal Utility District – Water (close up)



Great “Wall of MUD” stopping annexation.

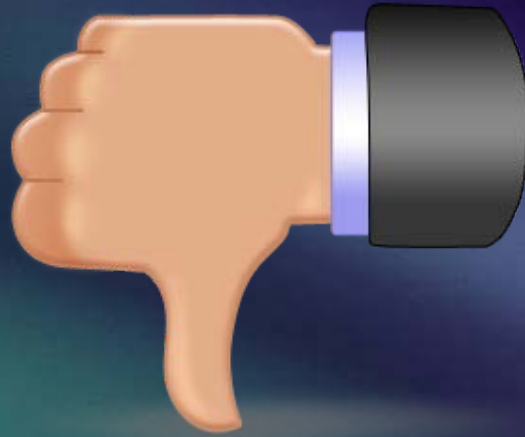
# Municipal Utility District (MUD)

- AMUD services Pecan Plantation, but smaller MUDs are between Granbury and Pecan Plantation effectively blocking annexation with a “Wall of MUD”
- Annexing through this Wall would required tens of millions of dollars...and a bond vote by the citizens of Granbury... Not going to ever happen.
- Cost benefit analysis = it's a losing proposition for Granbury residents & politicians.

So if Granbury is not a threat,  
where is the REAL threat?



**NO SERVICE CITY**



**NO SERVICES**  
**INCREASED TAXES**  
**BIG LIABILITY RISK**



“ The City Council would have no inherent motivation to impose a tax on themselves and their neighbors and thus alienate themselves **without overriding significant reasons and general community concurrence.**”

*- Incorporation Report*

# TAXATION

**Fact Check : The proponents of the  
“No Service City” plan promise  
“on a handshake” not to tax the citizens.**

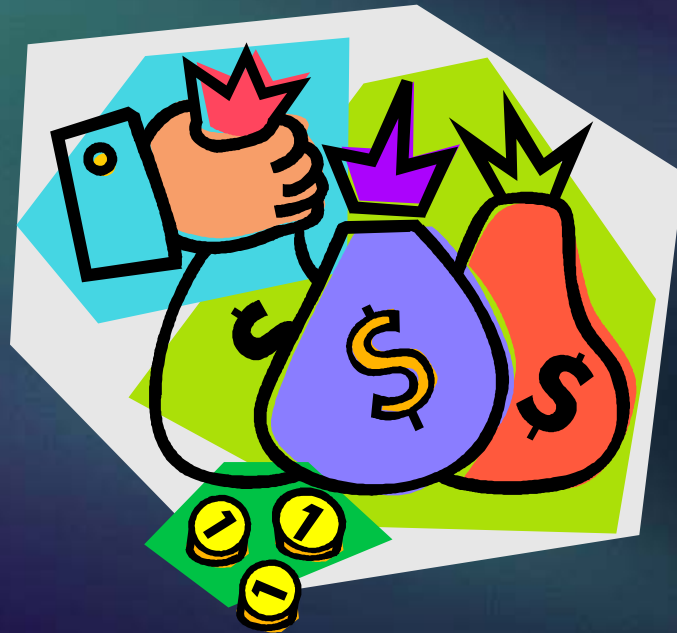
**But the citizens are the only  
source of income for the city!**

**A simple majority vote by 3 of 5 Aldermen  
can make the decision to impose  
taxes / fees upon the citizens of  
Pecan Plantation city, including  
an “ad valorem” property tax of up to  
\$250 for every \$100,000 of valuation per year.**



**As opposed to the 2/3rds majority  
needed for a PPOA dues increase...**

**No vote by citizens required  
to levy any city tax or fee.**





Claim : “ The model city income comes from a franchise fee and the liquor tax for mixed drinks from the clubhouse bar.”

*- Incorporation Report*

**Fact Check : Franchise fees and Liquor taxes  
ARE BOTH TAXES.**

**A tax by any other name is still a tax.  
Franchise fees are not being charged on our  
utility bills now. They will be added once the city  
is formed and claim is made by the city to  
collect those franchise fees (taxes).**

**There is no POT OF GOLD for the taking.  
Franchise fees and liquor taxes are still just taxes  
that will be passed along to US!**





# The City of Pecan Plantation may impose any or all of the following taxes / fees with a simple majority vote by 3 of 5 Aldermen :

Alcoholic Beverage Tax

Anticipation Notes

Assessments

Bingo Prize Fees

Building Security Fees

Certificates of Obligation

Coin-Operated Machine Tax

Credit Card Fees,

Drainage Fees

Hotel Occupancy Tax

Impact Fees

Internet Pymt & Access Fees

Franchise Fees, Gas & Water

Franchise Fees, General

Franchise Fees, Cable TV

Franchise Fees, Electricity

Franchise Fees-Telecommunications

Property Tax for General Revenue

Tax on Personal Property

Sales Tax Crime Control Fees

Sales Tax, Dedicated Purposes

Sales Tax, Economic Development

Sales Tax, General Revenue

Sales Tax, Property Tax Relief

Sales Tax, Street Maintenance

Sales Tax, Gas & Electricity

Sales Tax., Telecommunications

Special Improvement Dist. Fund Tax

Street Assessments

Traffic Fine Revenue

User Fees

Utility Fees

Venue Tax

# Hidden Dangers of Incorporation



# LOSS OF SERVICES

## County Development & Compliance

- Provides regulations and enforcement of new subdivision development. (Example: Landings)
- An “intergovernmental agreement” may be entered into with Hood County for oversight of development within the **ETJ ONLY**.
- **No oversight from county within the city limits.**
  - DeCordova already built out so does not effect them.
  - Pecan Plantation needs the County regulations and funding to oversee drainage and development issues.
  - Regulations require enforcement and without funding for services we need to rely on Hood County to provide this.



Claim : The model city has accepted a “Do Nothing” mission. The city has no obligation to provide services and therefore collects no city taxes from the HOA members.”

*- Incorporation Report*

**Fact Check : The City of Pecan Plantation will have to assume all of the responsibility and cost for replacing county services **LOST** or services **REDUCED** to a fee basis within the city incorporated boundaries **OR WE MUST DO WITHOUT THOSE SERVICES** and allow the developer to go unchecked.**

To replace lost county services,  
the city would need to create a  
**Development & Compliance Department**  
(with either paid staff or hired professionals)

- Engineering services
- Hydrology analysis
- Inspections
- Enforcement of municipal codes
- Legal & adjudication

**Cost ? NOT CHEAP !**



# Other losses of County Services

## ● Hood County Animal Control

- May be contracted by inter-local agreement at a rate of \$60 / hr
- Minimum service call of \$60
- In 2009 Hood County Animal Control officers responded to average of 3 calls/ wk.
- This same number of calls would cost Pecan Plantation City an estimated **\$ 9,360** minimum





# Other Services Required of City



## ● Town Marshall & Court System

- Cities over 5000 pop. must have a Town Marshall.
- Town Marshall must be a certified peace officer.
- Sheriff will provide for state law matters.
- City ordinances must be enforced and adjudicated by Marshall and municipal court.
- DeCordova will never exceed 5000. Pecan will eventually grow to 12,000.
- DeCordova is developed, and has no need to enact or enforce city ordinances. Pecan Plantation has 1700 acres remaining to be developed and will require ordinances and enforcement.

# Other Services Required of City

- **Flood Control Oversight – NFIP Administrator**
  - Cities must appoint an NFIP administrator to facilitate National Flood Insurance Program.
  - Flood Insurance rates in Pecan will be affected by non-participation in the program.
  - Houses along the river could become unsellable.
  - DeCordova has very little floodplain. Pecan Plantation is surrounded in flood plain.



**NO DECREASE in county TAXES**  
**BIG DECREASE in county SERVICES**



**The City will need to pay to replace  
these lost or diminished services,  
SO WE PAY TWICE!**

So is incorporation a bad idea?





# Not necessarily, but the Plan on the Ballot is DANGEROUS !

- Pecan Plantation is not DeCordova for many reasons.
  - DeCordova is fully developed.
  - DeCordova has a smaller population & smaller area.
  - DeCordova lacks floodplain, drainage issues.
- A “No Service City” plan that works for DeCordova would be disastrous for Pecan Plantation.
- Huge exposure to litigation from citizens and developer.
- Current boundaries on the ballot measure limit sources of city income to Pecan residents only.
- Plan is lacking commercial revenue sources.
- No room for growth and expansion, bridges.

# Can we change the initial boundaries?

- **No.** The group who filed the petition chose the proposed boundaries for the initial incorporation.
  - Boundaries limited to Pecan Plantation peninsula.
  - Orchard is included.
- Ballot measure must be voted down to reject proposed boundaries.
- Annexation of more land is problematic due to strict statutes governing annexation.
- Must be Home Rule city to annex without consent.
- Current plan incorporates only 7 sq. miles, initial incorporation may include up to 9 sq. miles.
- Potentially valuable commercial property is available outside front and back gates.

# Can we file another petition?

- **YES. If the current ballot measure is voted down on November 2, 2010.**
  - No cost for another election measure so long as the boundaries of the city are different from prior.
- More land may be included that would provide tax revenue source other than citizens of Pecan Plantation.
- We may take time to fully investigate the services which will be required and draft plans for implementation.
- We may even choose the name of our city.
  - Brazos City, Town of Fall Creek???

# IN SUMMARY

- The ballot measure was put in place with faulty information and a misplaced sense of urgency.
- Granbury poses no threat to Pecan Plantation.
- Incorporation under a “No Service City” will result in a reduction in County services and protection with NO decrease in County taxes.
- New city taxes & fees are UNAVOIDABLE.
- Increased risk of liability, risk of property value decline, risk of flood insurance premium increase, list goes on...



**There is NO THREAT, NO RUSH!**

**A new plan should be the  
product of a GRASS ROOTS effort  
as it was intended to be.**

**November 02, 2010**



**VOTE NO**

**to “No Service City”**

**Stop the plan that will harm the citizens!**

**Presented by :**

**Neighbors Promoting Truth Committee**

**Shawna Lawry, Treasurer**

**1030 E. Hwy 377**

**Ste. 110-269**

**Granbury TX 76048.**

“Enlighten the people, generally, and tyranny and oppressions of body and mind will vanish like spirits at the dawn of day.”

*Thomas Jefferson,  
April 24, 1816*



