

**To the Mayor and Members of the City Council****November 17, 2020**

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**SUBJECT: FINAL COMMENTS ON TRWD GENERAL ORDINANCE AND
COMMERCIAL FACILITIES ORDINANCE**

The purpose of this report is to provide the City Council with the attached letter to Tarrant Regional Water District (TRWD) commenting on proposed revisions to its General Ordinance and Commercial Facilities Ordinance. The letter is signed by the cities of Fort Worth, Arlington, Mansfield, Euless, North Richland Hills, and Haltom City. The content is consistent with the comments outlined in the October 20 Informal Report to the City Council.

Staff intends to present the letter to the TRWD board at its regular meeting on Tuesday, November 17, at 9:00 am. We have encouraged other cities and development stakeholders to speak as well. The letter requests that TRWD convene a stakeholder group to address the ordinance revisions.

The full TRWD ordinance revisions can be found here:

<https://www.trwd.com/resources/board-of-directors/#public-comment>

For any questions on this report, please contact Dana Burghdoff, Assistant City Manager, at 817-392-8018.

David Cooke
City Manager

Attachment



November 10, 2020

James Oliver
General Manager
Tarrant Regional Water District
800 E. Northside Drive
Fort Worth, TX 76102

Re: City of Fort Worth, City of Arlington, City of Mansfield, City of Euless, City of North Richland Hills and City of Haltom City's collective comments regarding the Tarrant Regional Water District's Proposed Changes to the General Ordinance and Commercial Facilities Ordinance

Dear Jim,

The City of Fort Worth, City of Arlington, City of Mansfield, City of Euless, City of North Richland Hills and City of Haltom City have worked collaboratively to address concerns we share in Tarrant Regional Water District's proposed ordinance. Collectively, we as stakeholders believe the ordinance is subject to interpretations that are overreaching and the effects of the ordinance could lead to adverse or conflicting actions within each of our jurisdictions.

The cities recognize Tarrant Regional Water District (TRWD) as an almost 96-year old water control and improvement district tasked with obtaining and maintaining a safe supply of raw

water. The TRWD is also charged and authorized to regulate recreational activities on and near its four freshwater reservoirs. The TRWD is empowered to exercise reasonable authority to maintain the safe, sanitary and adequate supply of water stored in its reservoirs.

It has been maintained by TRWD that the power it seeks to exert in the proposed ordinance is reflective of power it already has through its enabling legislation and various statutes. We believe, however, that the ordinance as currently drafted could lead to conflicts with the specific authority of the governmental entities. Moreover, the ordinance has the potential to place impractical burdens on individual property owners regarding routine use and improvement of their properties. In short order we believe the ordinance:

- Establishes an expanded Service Area for water and property for which there are no adjudicated rights to regulate and that overlaps other jurisdictional boundaries.
- Is overly broad by asserting that District Land includes all land that drains to District Water.
- Is overly broad by asserting that District Water includes all bodies or accumulations of water, natural or artificial, located within the district's Service Area.
- Improperly seeks to regulate water quality.
- Imposes conflicting TRWD development requirements within other governmental jurisdictions.
- Allows TRWD's General Manager the unilateral right to promulgate, order and impose development, construction and maintenance standards for land in other governmental jurisdictions.
- Requires the district's customers to adopt ordinances implementing TRWD's master drainage plan and other plans for water quality, and preventing waste or unauthorized use of District Water.

As recognized, TRWD is a water control and improvement district created by the legislature pursuant to Article XVI, section 59, of the Texas Constitution for "[t]he conservation and development of all of the natural resources of this State, and development of parks and recreational facilities, including the control, storing, preservation and distribution of the waters of its rivers and streams" However, TRWD is governed and limited by its enabling legislation as well as Chapters 49 and 51 of the Texas Water Code. Under this enabling legislation, TRWD's purposes are:

- (1) to secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of sanitary sewer systems;
- (2) to preserve the sanitary condition of all land and water controlled by the district;

- (3) to prevent the waste or unauthorized use of water;
- (4) to regulate residing, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district;
- (5) to regulate privileges on any land, easement, or property interest adjoining a reservoir or other property of the district to prevent activities on such adjoining land, easement, or property interest that could adversely affect the purity of water in this state; and
- (6) to promote state or local economic development and stimulate business and commercial activity in the district.

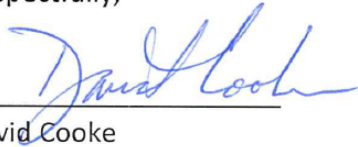
TRWD's proposed ordinance seeks to expand this authority by enacting regulations applicable to land, property and water that the district does not control either by ownership, statute or adjudicated rights. TRWD has not been given the power to regulate land, property or water it does not own or control.

Additionally, through this ordinance TRWD seeks to exercise jurisdiction and regulate water quality standards which are outside of the district's authority. It is the State of Texas that has such authority. Certainly TRWD's watershed can be protected pursuant to the provisions of the Texas Water Code; however, the regulatory authority for enforcing these protections belongs with the Texas Commission on Environmental Quality.


The limitation on the authority of the district was emphasized in 1991 when Governor Ann Richards vetoed HB 2056 which would have allowed TRWD the right to enter onto private property to conduct inspections and determine if water quality standards were being met and if proper permits were obtained for effluent discharge. Governor Richards stated that the bill attempted to grant TRWD powers that belonged to the State and "would allow the district to have significant and extraordinary powers outside the district limits, including the right to intrude upon private lands." Simply put, the proposed ordinance over extends the legislatively enabled purposes granted to TRWD in 2005.

We appreciate your willingness to work with the governmental entities that are affected by your regulations. **We propose that a stakeholder group, to include ourselves and others affected by the proposed ordinance, be formed and convene to better understand the issues and concerns TRWD is attempting to address and would like to share our thoughts at a meeting for this purpose.** Together, it is likely we can achieve the ultimate goals that TRWD desires to accomplish through this ordinance.

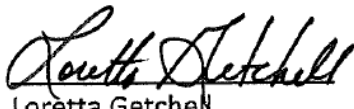
Respectfully,



David Cooke
City Manager, Fort Worth



Trey Yelverton
City Manager, Arlington




Loretta Getchell
City Manager, Euless



Mark Hindman
City Manager, North Richland Hills



Rex Phelps
City Manager, Haltom City



Joe Smolinski
City Manager, Mansfield