



The Woodlands Township Future Governance **Governance Options Report**

July 2012

Prepared by:
Partners for Strategic Action, Inc.
Fountain Hills, Arizona
PSAplanning.com



The Woodlands Township, now the official governing body of The Woodlands, was created with the merger of the Community Associations of The Woodlands and Town Center Improvement District (TCID). The Woodlands Township collects an ad valorem property tax, as well as sales and use taxes and hotel occupancy taxes.

In 2007, voters overwhelmingly approved a change in governmental structure that allowed residents to ultimately determine their future and, if so desired, to release The Woodlands from the extraterritorial jurisdiction (ETJ) of and annexation by the cities of Houston and Conroe for a period of 50 years. The Woodlands Township entered into Regional Participation Agreements (RPAs) with both cities that allow residents of The Woodlands to decide their future governance. At that time, TCID changed its name to The Woodlands Township, and the Community Associations entered into an agreement that would transfer services and operations to the Township. The Woodlands Township assumed all responsibilities and services previously provided by the Community Associations on January 1, 2010, and the Community Associations were dissolved. These changes in governmental structure occurred after many years of dialogue and study.

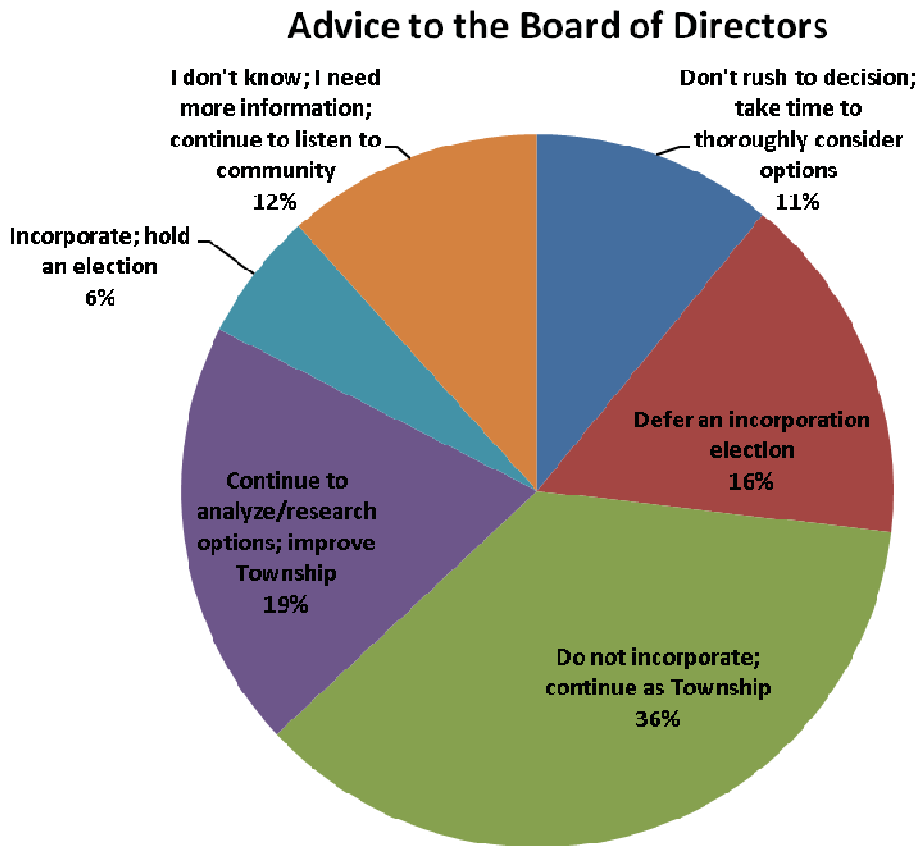
A key provision of the 2007 RPAs provides The Woodlands with the ability to determine its future governance, including the opportunity for a period of 50 years to be released from the ETJs of the cities and to incorporate as a city after May 29, 2014. As this date approaches, the Township's Board of Directors initiated a process to proactively determine if the current governance structure is best suited for the community now and into the future or whether changes need to be made. This process included a "gap analysis" that evaluated the effectiveness of existing service delivery and the potential future need for expanded and/or new services and governing tools as the community evolves, as well as a financial analysis to examine the costs of incorporation. The results of this research was utilized in dialogue held with citizens, businesses, and service providers about future governance for The Woodlands and provides the Board meaningful data to assist with determining what, if any, adjustments need to be made to the current governance structure to lead the community into the future. Partners for Strategic Action, Inc. (PSA) initiated outreach with stakeholders and residents to solicit feedback on the future governance of The Woodlands in March and April of 2012; the feedback received was compiled in a summary report and presented to the Board of Directors in August 2012.

Participants were asked: "If you could speak directly to the Board of Directors, what advice would you give them regarding what should be done next about The Woodlands' governance structure". Nearly 80% of the responses fit into one of the following general categories:

- Don't rush to a decision; take time to thoroughly consider options
- Defer an incorporation election
- Do not incorporate; continue as Township
- Continue to analyze and research options; improve the Township (through ordinance making authority, improved law enforcement, etc.)

- Incorporate; hold an election
- I don't know; I need more information; continue to listen to the community

Of these responses, only 6% recommended incorporating as a municipality or holding an incorporation election. The majority of responses recommended continuing as the present governance structure or deferring an incorporation election.



Based on the gap analysis, financial analysis, and feedback received by residents and business interests, the following outlines potential governance options for the Board of Directors to consider. Each option is summarized and identifies considerations that should be weighed when deliberating the governance alternative. This report is intended to initiate discussion for a deliberate and thoughtful course of action.

Option 1: Identify Triggers for Action

Many participants of the spring outreach events recommended that the Township should continue in its current structure. Citizen satisfaction surveys conducted every two years also demonstrate that residents are highly satisfied with the services provided by the Township. This option would retain the current Township structure as the local

governance model while monitoring various community indicators that could signal a need to fine-tune the current governance structure or consider a new form of governance. This option is consistent with participants of the spring outreach events that recommended maintaining or improving the Township governance structure as well as those that recommended deferring an incorporation election.

While the Township continues to receive high satisfaction rates from residents, regional pressures, community build out, community aging, increased desired service levels, and/or the diminished future role of The Woodlands Development Company could require additional governance tools and resources not currently provided in the current governance model.

This option entails observation of community indicators reflective of community values that would trigger a reconsideration of governance change, recognizing that the list of indicators may not be all-inclusive. Potential indicators could include:

- A change in crime rate or county law enforcement leadership and/or philosophy.
- A change in the condition of the road system.
- A change in traffic congestion.
- A change in covenant/deed restriction compliance through the existing means or processes.
- An emerging need for redevelopment tools as the community ages.
- The reduction of programs, services, or development initiatives by The Woodlands Development Company.

In the event that one of the indicators reflects a need for opening discussions and analysis regarding a potential change, the Township would devise a process to analyze needs and a strategy to move forward.

Based on current agreements, The Woodlands is free from the threat of annexation until November 16, 2057. At that time or at a point before, The Woodlands could also consider negotiating new agreements with the cities of Houston and Conroe, effectively continuing the provisions of the RPAs that allow The Woodlands the freedom to select its form of governance and protect the community from unilateral annexation well into the future. However, the ability to extend these portions of the RPAs is not guaranteed or supported by any current legal provision. It can be assumed that an extension of such agreements would likely require a continuation of or increase in the financial contribution from The Woodlands to regional improvement projects of mutual benefit to the community and to the cities of Houston and Conroe. The Woodlands current agreement provides funding to the cities of Houston and Conroe for an unlimited term, not to exceed the maximum term allowed by law, but for no less than 99 years.

While 70 percent of participants in the spring outreach activities believed that the Township model could address future challenges, the Township structure does not

provide the broadest scope of local control. Residents must rely on the counties and MUDs to be responsive to providing services such as roadway maintenance, traffic control, water, wastewater, public health, and basic law enforcement. It should be noted that the Township currently has contracts with the counties to provide enhanced law enforcement services to augment those provided to unincorporated communities.

Option 2: Pursue Legislative Changes

This option would be predicated on immediate or periodic changes in the Township's enabling legislation to adjust or expand the powers currently provided to the Township or to amend laws that could impact future governance decisions. This option is consistent with past Township practices to seek legislative assistance for identified governance problems and with the views of participants in the spring outreach events that recommended retaining the Township governance model while seeking to acquire additional powers, particularly that of ordinance making authority.

The Texas legislature meets every odd-numbered year, with the next legislative session beginning in 2013. This option would require finding supportive legislators to draft and introduce legislation that advances the identified needs and objectives of The Woodlands. The most often cited potential change to the Township's enabling legislation has been adding ordinance making authority, either broad-based or targeted to identified needs. Conversely, opening up the Township's enabling legislation, which is unique to only The Woodlands, could invite adverse changes to the Township. Municipalities hold extensive powers in Texas. An attempt to add broad ordinance making authority, a unique power of Texas municipalities, may invite opposition from municipalities and various interest groups, including the Texas Municipal League. Just as The Woodlands may seek to broaden the powers in the Township's enabling legislation, undue attention may solicit other changes to the legislation that negatively impact or even dissolve the unique Township government structure.

Another example would be changes in other governance legislation. To some residents, one of the most objectionable aspects of incorporation is the requirement that MUDs are immediately dissolved and the city assumes MUD liabilities and assets. Because The Woodlands has developed over decades, each MUD is in a different state of development. Older parts of The Woodlands have completed development, and thus the debt obligation for those MUDs is low, resulting in low MUD tax rates. Newer parts of The Woodlands have recently initiated significant investment into water and wastewater facilities, resulting in higher MUD tax rates. Upon incorporation, the city would assume the debt responsibility through a uniform tax rate or user fee applied to all residents. Because this would mean an increase in costs for many property owners in older portions of The Woodlands (those that have, in their view, already paid for the infrastructure investment) incorporation is often seen as an inequitable option. By contrast, residents in the newer portions of The Woodlands may believe that there is no

inequity because they will be contributing to the cost or rehabilitation and repair of older facilities.

A careful review of any potential legislative changes and the impact upon and feasibility throughout the whole Woodlands community would be necessary. If a legislative solution is desired, a vigorous review by the Township's legislative team along with a consultation with local legislators should occur before any subsequent action by the Board of Directors.

Any legislative solution would require the support of legislators and endorsement of the Texas legislature and governor. Successful passage of legislative solutions is not guaranteed, and as is noted earlier, the pursuit of such could result in adverse impacts to the existing Township enabling legislation. Additionally, successful passage of legislative solutions will likely not occur in one session. Thus, The Woodlands should be prepared to be patient and persistent if a legislative remedy is not immediately achievable. In some cases, a legislative solution may not be feasible. Pursuit of any legislative remedy would likely necessitate additional costs related to legal and lobbyist services to thoroughly vet, track, and support legislative initiatives.

Option 3: Hold Incorporation Vote on November 4, 2014

Few participants of the spring outreach events recommended holding a vote for incorporation. The RPAs allow for the opportunity to incorporate and for the release of The Woodlands from the ETJs of Houston and Conroe upon request of the Township on or after May 29, 2014. This option would prepare for an incorporation election. Per the Texas Election Code, the first time an incorporation vote could occur for The Woodlands would be in November 2014, while the last time an incorporation vote could occur under the existing RPAs would be May 2057.

An incorporation election can be initiated by the Board of Directors of the Township. The Township would assume the costs associated with any incorporation election. Upon passage of incorporation, The Woodlands would immediately become a general law city; however, because of the size and complexity of The Woodlands, becoming a home rule city would likely be desired. This would require the drafting of a city charter which the residents of the new city would have to approve at a subsequent election.

If The Woodlands elects to incorporate under current law, the MUDs would be dissolved and the responsibilities for water, wastewater, and drainage services would transition to the new city, as well as all assets and liabilities currently held by each MUD. The city would also be responsible for assuming the responsibility for law enforcement, road maintenance, animal control, traffic control, health and safety services (such as health

inspection), planning and development services, building inspection and code enforcement. The Woodlands city would also have to establish other administrative agencies, such as a city secretary's office, municipal courts, a police department, a public health agency, a public works department, and a city planning agency. Many of these services are currently provided by the counties; although the counties' responsibilities to The Woodlands would drastically decrease, the current county property tax rate would not be required to decrease under current law, and property owners in The Woodlands would continue to pay county property taxes at the rate set forth by commissioners.

This expansion of city services would require the acquisition of additional staffing and resources, including vehicles, equipment, and facilities. The fiscal impacts associated with incorporation were delineated in an analysis conducted by Economic & Planning Systems, Inc. and were estimated to increase in the current Township property tax rate by 70.4 percent.

Incorporation of The Woodlands would permanently remove the threat of unilateral annexation and would extend new powers to The Woodlands government, particularly the ability to enact ordinances to the extent they are not inconsistent with state or federal law. Ordinance making authority was previously identified by some residents as a potential deficiency of the current Township government. Incorporation would also provide more local/direct control of services previously provided by other entities.

Communications Strategy

As with previous efforts, it would be recommended that whatever governance option is pursued, a strategy that initiates communication and dialogue with residents and businesses should be developed and implemented. Residents and stakeholders have indicated the continued desire to understand and participate in future governance deliberations, including why decisions have been made and the implications of those decisions.