
CITY OF COPPELL & CYPRESS WATERS

The purpose of the report is to review the history, major elements, decisions, and outcomes that led to and resulted from the Crow-Billingsley development known as Cypress Waters. The development is located on a portion of land in the City of Dallas where the Dallas Power & Light Power Generation Plant, later to become known as the TXU North Lake Power Generation Plant, then the Luminant North Lake Power Generation Plant, once stood.

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INTRODUCTION

The City of Dallas (Dallas) annexed a parcel of property in the 1950s in order to construct a new power generation plant for its public utility, Dallas Power & Light. At the time, Dallas required that all such improvements could only be made on property within its city limits, thus the need for the annexation. The land acquisition was completed using strip annexation, a method no longer legal in Texas. The annexation property limits ran from Dallas corporate limits along an easement in the Trinity River to what is now the Sandy Lake Dam and Pump Station, then along a narrow right-of-way running southwest to what is now North Lake. The purpose for the right-of-way was to provide the land necessary to construct water piping infrastructure from the Sandy Lake Road Water Pump Station to the lake, which was constructed at the time to serve as the cooling reservoir for the electric power generation plant. Piping infrastructure was needed to maintain the lake at a level required to operate the power generation station.

In late summer/early fall of 2004, City of Coppell (Coppell) staff were notified that TXU had sold a portion of the 1,700-acre North Lake Power Generation Plant location to a local developer, Crow-Billingsley (CB). The purchase included approximately 325 acres of land predominantly on the southern portion of the subject property.

This news came as somewhat of a surprise to Coppell, as city leadership had previously met with TXU to communicate an interest in purchasing or leasing the property. The City of Irving (Irving) had previously expressed interest in the property as well. Both cities were told that TXU had no interest in selling the property as it was a vital asset to their power generation plans. A long-term lease was not practical for either city to entertain as TXU would require a 30-day termination clause making the property unusable for any municipal/park improvements.

Following the confirmation of the sale, Coppell staff contacted the Coppell Independent School District (CISD) to ensure they were aware of the sale. It was important that they knew of the sale for two primary reasons. First, the property was almost completely within the CISD boundaries. Secondly, the developer had previously constructed large-scale mixed-use developments that included many multi-family dwelling units. After learning about the sale of the property, CISD, too became concerned about the impact the development could have on its future planning.

In October 2004, at the invitation of the principals of CB, Henry and Lucy Billingsley, several CISD officials, including the superintendent, deputy superintendent and a member of the CISD Board of Trustees, and Coppell's deputy city manager attended a meeting where they were presented the preliminary plans for the overall development of the initial 325-acre purchase. Following this presentation, CISD and Coppell officials were joined by others to discuss the issue further. The additional attendees included the Mayor, an additional member of the Coppell City Council and the City Manager.

Subsequent to these meetings and many additional City Council, CISD Board of Trustee, and joint meetings with both entities, it was decided by both parties to intervene in the development process with the expressed intention to stop or limit the development, particularly the dwelling unit component, as it was believed a large number of students would be generated from this proposed large-scale development.

Further exacerbating the issue was the fact that Luminant Energy decided to sell its remaining 1,400+/- acres. Luminant Energy advised Coppell staff on March 3, 2005 that the remaining property was potentially available to anyone interested in making an offer to purchase it. Understandably, news of this plan caused Coppell and CISD to become even more concerned. As a result, Coppell took further intentional action

designed to mitigate the expected negative impacts from what would be an even larger and more dense development than previously expected.

The following is a review and discussion of the many considerations and outcomes that emerged as the development process ensued.

INTERESTED PARTIES

Very early on in the discovery and fact-finding phase and throughout the duration of the project, it became clear that there were several parties who had either direct or indirect interest in the outcomes of the development. Each interested party is listed below with a brief description of their respective interests.

TXU/LUMINANT/AFFILIATES (LUMINANT)

Shortly following the initial sale of the 325-acre tract, leadership of the company made the announcement that they would be “liquidating all underperforming assets” resulting in their placing the remaining 1,400+/- acres on the market. Their primary interest became selling the property while maintaining the easements needed to leave the many major electric transmission lines crossing the property in place.

CROW-BILLINGSLEY COMPANY

The plans for the initial development were quickly amended when the sale of the remaining property was announced. The zoning granted to CB included rights to develop more than 10,000 dwelling units on the initial 325-acre tract. CB’s interest was to maximize the development to include dwelling units, office and retail properties within a lakefront master-planned development, as the lake was viewed as an amenity for the overall development. The purchase of the remaining property would enhance their development potential.

CITY OF DALLAS

Dallas’s primary interest was to work toward the approval of the development as the entire location was within the property previously annexed into Dallas for public electric utility use. Dallas had an interest in limiting the costs associated with serving the development in all areas of Dallas city services, including, but not limited to, police, fire, EMS, water and wastewater utilities, park and recreation, library and other municipal services. The development was approximately five miles from the nearest contiguous portion of Dallas and much further from any Dallas service provision infrastructure. As such, Dallas emergency and other municipal services, including water and wastewater, were not available to serve the development in a satisfactory manner.

CITY OF COPPELL

Coppell’s primary interest was to protect City’s the public safety, park and recreation, and library services from the impacts of the development immediately adjacent to Coppell. An equally important interest was to protect Coppell from what would likely be a detrimental impact on traffic in the southern sector of the city. All these city service components had been carefully planned over many years by Coppell leadership and Councils and fears arose regarding what impact the development would have on the overall quality of life Coppell had created. Additionally, Coppell had the desire to assist the CISD in its effort to limit the number of dwelling units and bedrooms in the development.

COPPELL INDEPENDENT SCHOOL DISTRICT

CISD’s primary interest was to determine what impacts the development would have on student counts and the school finance model used by the State of Texas. CISD had previously believed they were essentially built-out and therefore did not expect any large influx of additional students, potentially as many as 1,000-2,000. At the time, this would have represented a 10% -20% increase in student population. Future school campus locations also became an important issue for the CISD as the project progressed.

CITY OF IRVING

Irving's interests somewhat mirrored those of Coppell. In addition to an interest in purchasing or leasing the property from TXU, Irving also had concerns regarding traffic impacts in the area. However, Irving had a vested interest in a portion of the commercial development that was located within its city limits.

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENT

NCTCOG's interests in the project were multifaceted in that they recognized traffic congestion would be negatively impacted without intersection improvements at that location. NTCOG also had an interest in assisting DART in advancing commuter rail along the Cotton Belt corridor that is adjacent to the development parcel.

DALLAS AREA RAPID TRANSIT (DART)

DART's interest was primarily, if not solely, associated with the possibility of a partnership with CB and Coppell to incentivize the building of the Cotton Belt line, including a stop at within the development. This corridor was a long-planned addition to DART's service area. It was particularly important as it provided a direct link to DFW Airport for the northern portions of the DART service area.

INITIAL CONCERNS

A comprehensive list of all concerns expressed by Coppell and CISD is difficult, if not impossible to recreate. However, the following major concerns were identified and remained central to the discussions throughout the duration of this development process.

IMPACT ON CISD

The primary concern for the CISD stemmed from the fact that they believed the district was approaching build-out. As such, their demographics reports indicated that they should not expect any great influx of additional students. Upon learning of the proposed development, known as Cypress Waters, and realizing the subject property was almost entirely within CISD boundaries, the concerns regarding student population and the need for campuses to educate them became paramount in CISD discussions.

The community shared those same concerns. On previous community satisfaction surveys, residents indicated that one of the major reasons they had chosen

Coppell to raise their children was because of the reputation and size of the CISD. The cost of the housing stock was higher in Coppell due to the overall perceived value people found in Coppell, driven in part by the CISD's reputation. CISD residents worried that a dramatic increase in size would negatively impact the district's ability to provide services in the excellent manner to which people had grown accustomed.

IMPACT ON TRAFFIC

Traffic in the southern sector of Coppell and along the Denton Tap/South Beltline corridor had already reached a failing grade of "F" as measured by the previously mentioned Level of Service (LOS) measurement system. The addition of more than 10,000 dwelling units and an additional 10,000 – 15,000 office workers needing ingress and egress to the development multiple times per day would cause further deterioration of the roadways, increase traffic and associated trip times and hamper general access to the areas beyond the immediate subject property, particularly during the morning and evening rush hours. Traffic studies provided during the Dallas zoning case identified expected increases in traffic resulting from the development.

Exacerbating this issue was the fact that all major roadways immediately adjacent to the development were not located within Dallas. Some were in Irving, while others, such as Denton Tap, South Beltline and East Beltline were located almost entirely in Coppell. Any costs associated with expanding capacity and long-term maintenance would remain the responsibility of Coppell, even though the City would receive neither revenue from the development nor reimbursement for roadway improvements and maintenance.

IMPACT ON CITY OF COPPELL PUBLIC SAFETY SERVICES

At the time of the development, the Coppell Police Department, Fire Department, and Emergency Medical Services served Coppell from one police headquarters and three fire stations in locations that enabled a quality response time to all areas of the City. The Coppell Fire Department had achieved an I.S.O I rating, and both entities had received the highest credentialing available to public safety organizations at that time. Any infringement caused by the development, or by helping to provide emergency assistance for the development, could have negatively impacted the response times of both departments. The use of Coppell public safety units within the development would make them unavailable for City residents and businesses when simultaneous calls occurred.

While the Coppell Police Department, and more so the Coppell Fire Department, had mutual and automatic aid agreements with Dallas and other surrounding communities, Coppell was not legally obligated to provide emergency services to Dallas in the Cypress Waters development. The influx of new residents and businesses in the Cypress Waters development would over-tax both departments should they agree to provide emergency services to Dallas at Cypress Waters.

IMPACT ON OTHER CITY OF COPPELL SERVICES – PARKS & LIBRARIES

Coppell had a longstanding policy of allowing students who attended CISD schools the ability to participate in youth sports and library services. This policy applied to students who not only resided within Coppell, but also to students who resided within the school district but outside city boundaries. The rationale for the policy was simply to build community among students and their families who were routinely together for school activities. The policy was not legally binding, and the City had no obligation to continue it.

The potential inclusion of the number of possible students residing in Dallas's Cypress Waters development was thought to be more than the existing city park, game field, other youth sports infrastructure and library capacity could manage.

IMPACT OF SALE OF REMAINING ACREAGE, 1,400+/- ACRES

The announcement in the spring of 2005 that Luminant would be selling the remaining acreage of the overall subject property caused Coppell and the CISD additional concerns related to the potential overall scope of what could become a much larger and even more dense development. The concerns discussed above would be magnified significantly if the development of the entire parcel mirrored what had been planned and approved in the zoning of the initial 325-acre tract. Additional concerns and considerations included:

- A. Additional 400-500 acres of developable land was included in the proposed sale.
- B. Up to 800 acres of developable land could be obtained by the developer if the lake was determined to be unneeded and unwanted, then reclaimed for development.
- C. The cost to purchase the remaining acreage and lake was estimated to require a tax rate increase for Coppell of between 7-15 cents, depending upon how much property Coppell might purchase and what the purchase price would ultimately be.
- D. Coppell submitted a bid to purchase the entirety of the developable land and the remaining lake.

IMPACT ON QUALITY OF LIFE & PROPERTY VALUES

All the concerns outlined above would have some level of impact on the ability of the school district and the City to maintain service delivery at and above expected levels. Whether it be from additional expenses caused by ancillary, spillover impacts from the development or the need to educate an additional 1,000 to 2,000 students, the expenses associated with doing so would certainly impact the ability of Coppell and CISD to continue service at current levels.

Perhaps even more impactful was the perceived loss of a sense of community Coppell and the CISD would experience if the community was negatively impacted by large developments within the CISD and on the immediate boundaries of the Coppell. Both entities had a long history of working closely together to

provide a high quality of life that many actively sought as they selected their community of choice for their families and businesses.

Any of the negative impacts had the potential to ultimately harm property values and degrade the quality of life our upper-scale suburb had created over a long period of time.

JOINT CISD BOARD OF TRUSTEES AND CITY OF COPPELL CITY COUNCIL MEETINGS

To say that the CISD and Coppel shared many interests would be an understatement. Each entity realized that they were inextricably linked to the other. The leadership of each civic body decided it would be an effective strategy to meet together, primarily in executive sessions, but also in public meetings and forums as they worked together to develop strategies and a plan to protect the CISD, Coppel, and the overall community. The issues outlined in the Initial Concerns section of this report comprise most items reviewed. The discussions centered on how to best affect the development in a positive manner, thus lessening the harmful impacts it would have if Cypress Waters moved forward with no density, housing or other limits. These meetings began in November 2004 and were held routinely for many months.

The joint meetings began as strategy sessions. Once legal actions had been taken, these sessions were used primarily to discuss pending court hearings, and, ultimately, potential items needed to settle the various suits and counter suits that had been filed.

CISD ISSUES AND CONCERNS

Of primary interest to the CISD was the fact that the district must provide public education to any student living within its boundaries. As such, the District would need to acquire land, build several campuses, and staff and operate the campuses necessary to meet the public education mandate. Any limits to the number of dwelling units, or the number of bedrooms within the dwelling units, could mitigate what might otherwise be a costly and difficult obligation to meet, particularly since the district had previously thought their attendance boundaries were all but built-out. CISD leadership believed the city elected officials and staff were best suited to help them understand the various development issues that would be expected as time progressed.

CITY ISSUES AND STRATEGIES

The items outlined in the Initial Concerns section adequately detail the major concerns that Coppel had to contemplate. Traffic concerns could be somewhat mitigated on East Beltline as the existing right-of-way provided space for additional lanes of traffic to be added to the eastbound and westbound directions. However, no such right-of-way space was available along the South Beltline corridor and any needed land would have to be dedicated or purchased from CB. The planned office and commercial development would negatively impact traffic beyond that of the residential units. Only limitations on the size and scope of the development could lessen traffic impacts.

The other major concerns regarding potential impacts to public safety, park and recreation services, and library services were equally as problematic to solve. The proposed development had little or no youth recreation space. Discussions included the possible development of a multi-city fire station. Altering or eliminating the existing policy allowing CISD students to participate in Coppel activities became a real possibility.

GOALS/OBJECTIVES

As a result of the joint sessions of the governing bodies and countless hours of meetings between executive staff members of each entity, including multiple meeting with CB, Dallas, Luminant and others, several goals were developed by Coppell and the CISD. The major goals follow:

STOP OR LIMIT SCALE OF DEVELOPMENT

This became the preferred strategy and desired outcome for the CISD, Coppell and the community in general. The primary purpose of this goal was to mitigate the traffic congestion and higher student counts expected should the development proceed unimpeded. However, it proved to be the most difficult goal to achieve given that the subject property was not in Coppell. Further discussion of the steps taken to accomplish this goal is included in the Legal Actions section of this report.

ANNEX PROPERTY INTO CITY OF COPPELL

If the subject property could be annexed into Coppell and/or Irving, the development could be managed by the municipalities most impacted by the development. This strategy was not favored by CB or Dallas. Once initial zoning was granted, most potential positives associated with annexation were lost due to the establishment of vested rights on behalf of CB. In Texas existing zoning remains with any property annexed.

DETERMINE POTENTIAL BENEFITS FOR CITY/CISD/COMMUNITY

Initially few, if any, benefits that the development would produce for Coppell, the CISD, or the community were identified. As the development proceeded, it became apparent that DART had an interest in partnering with Dallas and CB to bring a commuter rail stop to the development that would help bring the Cotton Belt line into existence.

ACQUIRE/ENSURE NECESSARY LAND FOR CISD AND MUNICIPAL SERVICES

Initial plans presented by CB to Coppell and the CISD made no provision for school campus sites, public park land for playing fields, or any other public uses. CB's initial assertion was that the development would not generate many students. This belief was not shared by the CISD. While multi-family development might not generate a large student population in many districts, this was not the experience that the CISD had previously with other multi-family developments in the district.

Coppell had developed a robust youth and adult athletic program for its residents. A large-scale development with little or no park space for playing fields could negatively impact existing facilities within Coppell as residents of Cypress Waters sought opportunities to participate in youth and adult sports.

CONDUCT PUBLIC PRESENTATIONS AND PUBLIC INPUT SESSIONS

Early on it became clear that the community not only wanted to be kept informed about the project but that many had input they wanted to share. Given that the proposed development could have negative impacts, it was appropriate that time be given to this effort. Public presentations and input sessions were used to educate the community on the status of the development process and to gather any feedback members of the community might have.

PUBLIC PRESENTATION AND INPUT

Beginning in October of 2004 and continuing through 2005, both Coppell and the CISD hosted many public presentations, work sessions and regular session meetings in which the Cypress Waters development was discussed. These discussions took several different forms. Some were designed as presentations only, while others included public input opportunities. These sessions began almost immediately after learning of the proposed development.

CITIZEN SUMMITS

Coppell regularly hosted Citizen Summits where groups of residents came together with the City Council and key staff members to work on major initiatives that would impact upcoming budgets and service delivery strategies. On April 5, 2005 Coppell conducted one such summit where the proposed development was discussed and mentioned as a concern by many of those in attendance. The comments received at that summit assisted the City in its creation of strategies and tactics to address the proposed development. Citizen Summits in subsequent years also included discussions of the development as it progressed along.

CITY COUNCIL WORK SESSIONS AND REGULAR SESSIONS

Noting each City Council meeting at which the development was discussed would result in an exhaustive list. Instead, the issue was discussed at many, if not most, City Council meetings and presentations beginning in late 2004 throughout several years until the settlement was entered into in 2008. Even following the settlement, the item was included on many agendas thereafter.

TOWN HALLS

Coppell held several public presentations in Town Hall and other public formats designed to inform the community regarding the development and any Coppell actions that had been taken or were planned. One of the most important Town Hall presentation was a community-wide presentation at the auditorium at Coppell Middle School West on May 25, 2005. Dr. Robert Frielich, the land use attorney hired by Coppell and the CISD to manage the legal aspects of the case made most of the presentation to the community. The public input previously received at Citizen Summits and City Council meetings was incorporated in the presentation materials at the meeting. It was at this meeting that the community voiced its desire for the City Council and CISD Board of Trustees to take steps to stop the development, and failing that, to limit the size and scope of the development as much as possible.

CISD PUBLIC MEETINGS

The CISD Board of Trustees also conducted several public meetings following the announcement of the development and throughout the development process.

COMMUNITY EXPECTATIONS

The information and public opinion gained at the myriad of meetings conducted by Coppell and the CISD shaped the way in which both entities proceeded in their efforts to stop or minimize the impact of the development. Many different ideas and strategies were suggested. Some things the community wanted to see happen; other items were to be avoided, almost at any cost. The following stood out as being of utmost importance.

ITEMS TO ENSURE HAPPEN

The community was vocal in its recommendations to Coppell and the CISD, and there was no shortage of items that the community wanted to see executed. However, the following were viewed as being the most important.

- A. Stop or limit the development: Residents were most interested in stopping the development altogether. Even though the development was entirely outside the municipal limits of Coppell, residents were adamant that Coppell and the CISD should do anything possible to stop the development.
- B. Lake and park access: Once it became clear that the development was going to take place in some fashion, and once Coppell began to acquire a portion of the property, residents wanted to see the Coppell land developed into park and open space with lake access. It was thought that the community could at least experience some positive outcomes if it had to live with the negative effects of the development.

ITEMS TO PREVENT AT ALMOST ANY COST

Once it became clear that the development would proceed, there were several items that the community wanted to avoid. While numerous items were identified, the following were most important.

- A. Anything but Residential: If development of the property was a certainty, residents of Coppell and the CISD wanted to prevent the perceived harmful effects of the development on the CISD student population numbers. The only way to truly realize this outcome would be to prevent any residential component of the development. Thus, the abbreviation “ABR” came into use and became part of routine conversation between members of the Coppell City Council. CB was encouraged to develop the property in a more commercial and office manner.
- B. No Subsidizing Dallas or CB: The fact that the development was located in a remote portion of Dallas resulted in it being physically located far from any Dallas municipal services. Neither Dallas or CB could easily access water, wastewater, police, fire and other municipal services. Coppell citizens were clear that they had no interest in subsidizing either Dallas or CB as they attempted to move the development forward as planned.

BOND ELECTION

Perhaps the most pointed action taken by the residents of Coppell to express their expectations was the passage of a bond referendum in May 2006. Initially, Coppell sought to condemn a portion of the original 325-acre tract via the eminent domain process for the purposes of ensuring adequate park facilities and other public uses were included in the overall development. This strategy would also have the practical

outcome of limiting the size and scope of the development as fewer acres would be available for development purposes.

Residents approved a \$25 million bond issuance for this purpose. Once the remainder of the 1700-acre tract, including the lake, was placed on the market by Luminant, Coppell used the approval of the general obligation bond referendum as authorization to issue a \$25 million certificate of obligation issuance instead of the general obligation bond. This city council approved bond was used to make an offer and later pay for a portion of the remaining 1700-acre site as part of the settlement of all suits. Incidentally, the bond referendum passed by a vote of 2,375 for and 420 against, or 85% for and 15% against. This represents the largest margin of a vote for any initiative in Coppell's history.

LEGAL ACTIONS

Dr. Robert Freilich, a renowned U.S. land use attorney who had just previously won a case based on Regional General Welfare Theory was retained on February 24, 2005 to lead Coppell and CISD's legal efforts. Coppell and CISD initially sought to oppose the zoning request by CB on the original 325-acre tract. When it was clear this effort would be unsuccessful, they then filed a regional general welfare suit seeking to limit or alter the proposed development to mitigate any near-neighbor negative effects that a development of this magnitude, literally on Coppell's doorstep, could have on the community's overall quality of life.

When the remainder of the 1,700-acre tract was placed on the market Coppell provided an offer to purchase the entirety of the remaining property, as Luminant had indicated all potential buyers were welcome. Other entities provided offers as well, including CB. As a result of the competing offers, Luminant decided to negotiate with both Coppell and CB to determine if an agreed upon sale could be arranged. This effort led to the settlement of all cases and the purchase of the remaining land. CB purchased most of the property with Coppell purchasing the balance of the remaining property, including the lake and dam. Certain obligations were required of each entity going forward as part of this agreed upon settlement.

Discussion of the major legal issues follows:

RATIONALE FOR ZONING OPPOSITION

The subject property was annexed in the mid-1950s by Dallas from an area of unincorporated land that was within the extreme northwest corner of Dallas County. The physical location of the property made its development by Dallas difficult for a number of reasons.

- A. The property was bordered on all sides by the cities of Coppell and Irving. TXU, then Luminant had previously declined to enter long-term leases with Coppell when the idea was presented to them by Coppell officials as late as 2003/2004. Luminant officials also advised that they had no plans to divest themselves of the asset as it remained critical to their long-term power generation efforts. Therefore, CISD had not considered the property in any demographic studies.
- B. Dallas had no immediate means to serve the development given its remote location relative to the closest areas of Dallas proper.
- C. The property was annexed for a very specific purpose, electric power generation, using old annexation law that is no longer in practice. Necessary service delivery for new land uses were neither planned for nor discussed from the time the property was annexed until the time the property was sold to CB. Additionally, Coppell believed that any development rights that might have existed at the time of the annexation should have been voided when the law on strip annexation changed in Texas, in part due to the negative impacts felt by neighboring jurisdictions when this type of annexation led to large development on "peninsulas" of property surrounded by other jurisdictions.
- D. All major regional roadways were entirely in the cities of Coppell and Irving, as were the closest public safety, park, library and other municipal services.

REGIONAL GENERAL WELFARE CASE

When zoning was granted for the initial 325-acre tract, Coppell filed a suit based on the Regional General Welfare theory. In short, this legal theory states that municipalities bordering proposed major developments in neighboring jurisdictions should not be expected to shoulder the burden of unwanted negative spillover impacts resulting from the development.

This case never reached a disposition as it was dismissed when the parties agreed to settlement terms, including the purchase of the remainder of the initial 1,700- acre tract.

PROPERTY CONDEMNATION

Part of Coppell's legal strategy included filing property condemnation proceedings against CB with the stated purpose being to acquire property sufficient to provide adequate park and open space, workforce housing and adequate roadway right-of-way to ensure the proposed development would have minimal negative impacts on Coppell. The Coppell City Council authorized this action on November 8, 2005.

These proceeding were never concluded as the parties settled this issue as part of the overall settlement proceedings that included the sale of all remaining parcels and the disposal of all pending cases.

SETTLEMENT NEGOTIATIONS

Multiple parties participated in what can only be called a prolonged settlement negotiation process. Coppell, CB, and Luminant were the primary parties as the latter was the original owner of the subject property and Coppell and CB had both provided offers to purchase the remaining property.

Meetings were conducted not only with the principal parties but also with DART, NCTCOG transportation staff, and affiliate companies of Luminant. These meetings took place over several years at various locations. The purpose of these meetings was to determine how the resulting property ownership and service delivery issues could be resolved while also enabling the development of commuter rail within the Cotton Belt corridor.

Simultaneous to the settlement negotiations discussed above, multiple meetings were held between city management, public safety, engineering/traffic, and other staff members from Dallas, Coppell, Irving, and DFW Airport. Elected officials from the cities involved participated at times as well. The purpose of those protracted discussions was to determine what options might exist to provide municipal services to the development that could be incorporated into any settlement outcomes.

No major agreements were forged between the three cities involved in the negotiations regarding the provision of municipal services. It remained the opinion of Coppell and Irving staff that Dallas owned the obligation to provide municipal services to all areas of Dallas, including the proposed Cypress Waters development.

SETTLEMENT REQUIREMENTS

An understanding was reached regarding property ownership as Coppell and CB agreed to purchase respective portions of the remainder of the property. Additionally, the settlement terms resulted in the dismissal of all ongoing and pending litigation. The settlement obligations for Coppell and CB follow:

SETTLEMENT OBLIGATIONS REQUIRED OF COPPELL

Several obligations were required of Coppell in the settlement terms that concluded all pending suits. These include:

- A. Purchase 494 acres, including the lake: The purchase of property took many months to complete and included several separate transactions as property lines, lake limits and other considerations had to be considered. Physical changes to the land/lake evolved as portions of the lake was reclaimed for development.
- B. Modify the dam, spillway and other components necessary to maintain the lake at a constant agreed upon level: This obligation resulted in Coppell completing a public works project to alter the spillway, enabling water level management necessary to maintain the required constant level of the lake.
- C. Maintain lake in perpetuity at the agreed upon level, including purchasing and/or developing any water rights, pumping capacities or other water delivery techniques sufficient to maintain lake levels: Coppell purchased the Sandy Lake Pump Station and Pipeline as part of the final purchase of property from Luminant. These facilities were designed to move water from the Trinity River to North Lake to ensure maintenance of necessary water levels, originally for the operations of the power generation plant, and now for the constant level of the lake as required by the settlement terms.
- D. Assist Dallas and CB with temporary water and wastewater services until certain development thresholds were met or for a certain amount of time: Coppell provided temporary water and wastewater services until Dallas and CB could provide permanent connections.
- E. Coppell has no obligation to provide public safety or other municipal services going forward.

SETTLEMENT OBLIGATIONS REQUIRED OF CB

CB had obligations to meet under the terms of the settlement as well. They include the following:

- A. Shoreline exchanges: Property descriptions and property lines changed as the lake continued to be reclaimed. CB was required to agree to several property/shoreline exchanges to true-up final ownership and associated legal descriptions.
- B. Repay Coppell for water used from the lake for irrigation purposes: CB intended to use water from the lake for irrigation throughout Cypress Waters. Metering facilities were required to ensure that Coppell was not paying for water used for irrigation purposes.
- C. Dwelling Unit Cap: Perhaps the most important element of the settlement from Coppell's and CISD's perspective, CB agreed to a 10,000 dwelling unit cap.

D. One Bedroom Requirement: CB also agreed to require that 75% of all dwelling units be limited to one-bedroom units.

The latter two obligations for CB were important to Coppell and the CISD. The dwelling unit cap would limit the number of residents and the one-bedroom requirement would limit the number of CISD students resulting from the development. These elements were valuable for two primary reasons. First, the limitation of dwelling units and number of bedrooms met one of the City and School District's goals – to limit the size and scope of the overall development. Also, these two obligations for CB would later prove valuable when Coppell contemplated selling its property.

PROJECT EXPENDITURES

Projects of this magnitude and complexity carry large budgets that include expenditures of many types. Expenditures associated with legal fees, land purchases, property maintenance, and a number of indirect expenses comprise the majority of costs related to the Cypress Waters development. The total costs to the City of Coppell are well in excess of \$34,000,000.00, and this amount continues to grow annually. The following is a breakdown and discussion of the major costs and expenditures.

LEGAL FEES

The original effort by both Coppell and the CISD was primarily a complex legal battle between the two governmental bodies and several other entities. Legal negotiations, demands, and ultimately a number of lawsuits resulted in large legal expenses. The effort led by Dr. Freilich equated to approximately \$3,908,469.00 in legal expenses paid by Coppell.

Additional legal fees paid by Coppell include the billable hours from the City's attorney firm, Nichols, Jackson, Dillard, Hager and Smith. Ongoing legal work related to the project continues to increase the overall legal costs of the project. This includes necessary work with Texas Commission Environmental Quality (TCEQ) and Dallas regarding water rights, current and future real estate transactions related to property Coppell now owns, and other matters.

LAND PURCHASES

A number of different land transactions have transpired over the years related to the sale of the remainder of the original TXU tract and the settlement agreement and associated amendments that followed over several years. Coppell entered into a negotiated purchase of portions of the remaining 1,400+/- acres in which Coppell agreed to purchase property in accordance with the settlement terms previously discussed. CB agreed to similar obligations.

Approximately 494 acres were purchased by Coppell. The cost of acquisition was approximately \$26,000,000.00. At least six different land purchases and sales have transpired, resulting in the current ownership of all of the 1700+/- acre site.

SPILLWAY/CHANNEL RECLAMATION AND ONGOING MAINTENANCE COSTS

Ownership of a lake, including a dam and all the necessary obligations needed to first create the constant water level required of the settlement followed by the ongoing annual maintenance of these elements comes at a high price. Physical renovation and reclamation project costs exceeded \$4,000,000.00. Annual maintenance and other property management obligations will exceed \$225,000.00 per year. Details of these expenditures are as follows:

- A. Spillway Reclamation: The spillway portion of the dam structure had to be modified in order to maintain lake levels at the required 485' contour within acceptable variances. This project had a cost of \$3,319,342.00.
- B. Channel Rehabilitation: Coppell was obligated to make some improvements to a portion of the channel that provided for the flow of water from the west property limits along South Denton Tap in an eastward direction toward the lake. This effort had a cost of \$812,666.00.

- C. Annual Maintenance and Water Costs: It is anticipated that the cost of general property maintenance for the land, lake and dam will be approximately \$60,000.00 per year. The cost to purchase water via the water rights agreement with Dallas and the Trinity River Authority will initially be \$170,000.00 per year.

INDIRECT COSTS OF STAFF TIME

One final cost element is related to the literal thousands of man-hours that have been required of Coppell elected officials and staff, CISD elected officials and staff and others. Not only should this cost be measured in dollars, but the effort also caused attention to be diverted from other important projects and issues that the respective staffs would normally be completing. Additionally, the emotional toll this project had on many members of the elected officials, staff and the community as a whole cannot be measured.

DART OPPORTUNITY

During the course of the lawsuits, zoning battles, land purchases and other elements of the overall project, discussions around the possibility of the inclusion of a DART commuter rail station within the development began. By its own regulations, DART stations can only be placed within the municipal limits of DART member cities. Given that the entirety of the Cypress Waters property and the property that Coppell purchased as part of the final legal settlements was in Dallas, it was possible for a station to be located somewhere within this area.

Coppell had once been a member of DART, but voters decided to leave the transit agency in August 1989. Residents did not want to continue paying DART the required 1-cent of all collected sales tax revenue for promised future service. At the time of the election that terminated Coppell's partnership with DART, Coppell received one bus per day to and from connections in Dallas. Commuter rail service would be years into the future, a consideration validated by the fact that commuter service through Coppell is just now in the final planning stage.

Leaders in the community long ago realized that the Cotton Belt rail corridor, which runs from Coppell's eastern city limit to its western city limit, would be placed into service at some point in the future. There were several reasons why commuter rail development was likely and there were a number of concerns Coppell had should this come to pass.

DART OWNED THE COTTON BELT CORRIDOR

DART had previously acquired the track and associated right-of-way. In some ways this corridor would be the most cost-effective corridor for DART to develop since the agency did not need to acquire additional land to advance the rail and the physical rail line/corridor already existed.

REGIONAL INTEREST IN THE CORRIDOR

A commuter rail line was desired by DART member cities, including those to the east of Coppell. Reasons for this include:

- A. Rail line would provide line direct access to DFW Airport
- B. Rail line would provide access to cities beyond DFW Airport including Ft. Worth
- C. DART future plans included several new corridors, including the Cotton Belt line

PRIMARY CONCERNS OF COPPELL REGARDING COMMUTER RAIL

Given that the corridor ran the entire length of Coppell's city limits, a number of concerns were evident should commuter rail become a reality on the Cotton Belt line, particularly in its present right-of-way.

- A. The Corridor was located literally adjacent to several residential neighborhoods that included all types of dwelling units, from multi-family apartments to multi-million-dollar homes. The noise expected would not be accepted by residents living in those locations.
- B. The number of road/rail crossings throughout Coppell were cause for concern due to the lights, signals and noise generating warning systems that are typically associated with such rail crossings.

- C. The frequency of trains in peak hours, every fifteen minutes in the morning and evening rush hours further exacerbated the concerns of the residents.
- D. Frequency of trains could also have a detrimental impact on surface traffic during peak hours, particularly at the rail crossing at South Denton Tap Road.

In recent years, particularly as the discussion regarding the Cotton Belt corridor's likely development increased, leaders in Coppell had discussions with DART staff about noise protections for Coppell. Coppell hoped to avoid having commuter rail trains travel through Coppell at speed without necessary noise mitigation elements and without easy accessibility to the rail line for Coppell residents. It could be viewed as a negative if Coppell had to endure all of the detriments associated with the commuter rail without the ability to easily access the trains.

POTENTIAL TRANSIT ORIENTED DEVELOPMENT (TOD) ON COPPELL PROPERTY

DART, CB, Dallas, and Coppell began to discuss of the possibility of creating a DART station on land either within the Cypress Waters development or on property in Dallas that Coppell owned. The fact that Coppell owned land in the Dallas provided an entry into the overall DART conversation, particularly since the property could prove beneficial to the regional rail component. Either the CB or Coppell sites would suffice regarding the DART location requirement to be in a member city. However, the Coppell property had to be included in the design of the DART station and corridor as it had to be traversed to move the rail between stations. This leverage provided the impetus for the discussions that resulted in a public-private partnership between CB, Coppell, DART, and NCTCOG designed to facilitate this potential to become a reality that could serve the respective interests of the parties participating in the project.

- A. CB Interests: The developer believed a TOD would greatly enhance their development as it would provide additional opportunities for retail, restaurant and other TOD-associated amenities. The TOD would also enhance commuter options for the residents of Cypress Waters as well as who work within Cypress Waters.
- B. Coppell Interests: The importance of owning a portion of the property needed to advance DART services to Cypress Waters cannot be overstated as it allowed Coppell a seat at the table and a place in DART discussions. The use of a portion of property within Dallas, owned by Coppell, that was immediately adjacent to Cypress Waters could be beneficial to the development of a TOD. Coppell would be in a better position to request noise and traffic mitigation efforts such as sound walls, quiet zones, and grade separations if CB, Dallas, and DART expected Coppell to participate in the project. Coppell would also be in a position to influence the location of the TOD and associated track alignment decisions. This was of utmost importance as it could lead to the relocation of substantial portions of the commuter rail line away from residential areas in Coppell. Coppell residents and workers in the Coppell community would have the ability to access a regional commuter rail immediately adjacent to Coppell.
 - a. Coppell Public Forums: As part of this effort, Coppell held a number of public forums in March 2007 designed to educate impacted residents of the potential outcomes associated with the development of the corridor as it existed or along an altered route to accommodate the TOD.

- b. Coppel executive staff members participated in multiple design charrettes in 2016 and 2017 with CB to determine the optimum track and TOD locations. Coppel property was considered for track and TOD design purposes. Potential joint development of the surrounding property was contemplated as part of these discussions to determine if property owned by each party could be used in future commercial development. The property owned by Coppel had a number of development challenges, not the least of which were related to the overall topography of the land. Severe slopes existed on much of the property that could lead to development cost being prohibitive.
- C. DART Interests: DART has continued to work on system expansion efforts for many years. The interest in a direct connection to DFW Airport and points west from cities east of the airport had continued to grow. The possibility of a TOD along the corridor enhanced the likelihood that the corridor could become a reality much sooner than previously thought.
- D. NCTCOG Interests: NCTGOG's efforts to enhance regional transportation of all types is almost legendary. The ability to connect the entire metroplex with a corridor that served the northern portion of DART's service area through the northern entrance of DFW Airport was particularly important to NCTCOG.

From the perspective of Coppel, the totality of these discussions and alternatives satisfied the needs regarding noise mitigation and traffic impacts. Areas of the corridor will be protected by sound walls. Each rail crossing will be equipped with quiet zone equipment. Grade separation will be provided at South Denton Tap and the rail line as it proceeds westward from the TOD. Finally, Coppel residents will have access to the rail services provided at the TOD.

RATIONALE FOR SALE AND DIVESTITURE OF ALL ASSETS

Beginning in late 2016 Coppell and CB had discussions regarding the possible sale of all Coppell property, including the lake, dam, and developable property located north of the lake to CB. These discussions grew somewhat from the conversations associated with the ongoing design charrettes. Each party had interests in this possible outcome.

CB INTERESTS IN ACQUIRING ADDITIONAL PROPERTY

CB's interests in acquiring additional property were clear. They would be able to expand the size and scope of the overall Cypress Waters development, particularly the creation of additional water-front office campus development that was already showing promise along the southern and eastern portions of the lake.

CB did have some concerns regarding lake and dam maintenance that Coppell was obligated to manage. Those concerns would be addressed during the negotiations of any proposed property transactions.

COPPELL INTERESTS IN SELLING PROPERTY

The possibility of divesting itself of all real estate holdings associated with this project brought a number of positive outcomes for Coppell. Coppell's interest in selling its property to CB was predicated on the residential dwelling unit cap and one-bedroom restriction remaining in place.

- A. Property Located in Dallas: The fact that the Coppell property was located entirely in Dallas would require Coppell to seek zoning and permit approval from Dallas for any improvements made on the property in the future.
- B. Elimination or Lowering of Existing Debt Service: Proceeds from the sale can be used to pay for the remaining principle owed or lower any remaining debt service.
- C. Eliminate Maintenance and Water Rights Obligations: Ongoing lake and dam maintenance obligations are expected to be well in excess of \$60,000 per year. Costs of acquiring water required as part of the settlement terms is expected to be near \$170,000.00 per year. These costs are likely to increase over time. When amortized over a 20-year period, Coppell could save in excess of \$4.5 million dollars if it no longer had these obligations.
- D. The challenges to develop a portion of the Coppell property due to the previously mentioned slopes and topography would be alleviated with the sale of the property as CB would be able to incorporate the property with the current holdings and better manage the slopes and other challenges.
- E. Eliminate Ongoing Soft Costs: Calculating the actual costs associated with the time of elected officials and staff time dedicated to this project is not possible. Time dedicated to this project easily exceeds thousands of staff hours. The value of the diverted attention of these individuals is also not possible to calculate. Even so, these opportunity costs would continue to grow into the future should Coppell remain an integral property owner with the associated obligations and/or become a developer of property it currently owned within Dallas.

The sale of all real estate holdings would accomplish multiple outcomes beneficial to Coppell. Major annual costs associated with ongoing maintenance efforts would be avoided. The reduction and/or elimination of debt service payments now required would make those funds available in the future for other priorities. Coppell would avoid what could be costly development expenses associated with the development of their property. All of these beneficial outcomes could take place while still maintaining the dwelling unit and bedroom limitations on CB.

CONCLUSION

As can be gleaned from the information provided, the North Lake/Cypress Waters project continues to be one of the most complex, expensive and contentious issues encountered by the City of Coppell. There was no shortage of input from many members of the community regarding how the city should have dealt with the proposed development. Elected officials from both Coppell and the CISD were equally immersed in many aspects of the issue. Many members of the city staff spent countless hours managing the components of the proposed development and subsequent outcomes.

It can easily be seen that the dwelling unit cap and one-bedroom requirements will benefit the community, particularly the CISD, going forward as the number of expected students should be lower than would have been the case had the restrictions not been applied. The access to regional rail and the mitigation of the normal negative noise and traffic impacts typically associated with rail service has been managed as well as anyone could expect.