

Home Rule is Where the Heart Is

By John Montgomery

In the fall of 1923, Rice University engineering professor, Jack Rafferty, was unsettled by the sight of a copperhead gliding across his front porch. -The snake, like many of Jack's neighbors, had been forced to higher ground by the recent heavy rains. -Back inside, his wife Rena observed that high flood waters in the area made the homes look like a community of houseboats. If the Raffertys were going to stay in the area, something needed to be done about storm drainage. Jack and Rena called an emergency meeting of neighbors at their home, where the attendees decided incorporation of a new city was their best shot at holding their ground.

In December of that same year, 30 area residents gathered in a garage in the 6600 block of Westchester St., and voted to incorporate a city called West University Place. A few weeks later, in January 1924, Harris County Judge Chester H. Bryan certified the incorporation of the city. -The new city's total population was 250 persons. A new 100' x 200' lot sold for \$1,000.

Beyond drainage issues, the West U founders also came together to solve other major infrastructure and quality of life challenges that included public safety, street pavement, education, and sidewalks. Incorporation gave our incipient City the right to sell tax-supported bonds to fund new infrastructure priorities.

The goal in those days was to grow enough critical infrastructure until such time that Houston would annex the city, giving West U a needed connection to utilities and "big city" services.

This coveted marriage proposal from Houston never transpired. Strapped by early growing pains, Houston feared stretching its infrastructure too far, too fast, so it initially told West U to take a hike.

Finally, in 1939, 15 years after West U's incorporation, Houston came calling. Would West U like to be annexed after all? This time, it was West U's chance to give Houston the proverbial *digitus impudicus*. In the years after Houston's initial rejection, the little city of West University Place had learned to do things more efficiently on its own.

Were there challenges? Big time. By the early 1930s, West U's ambitious infrastructure buildout had left the City broke. R.G. Hyett, West U's second mayor, was forced to organize a bailout from debt holders for the City to survive.

In addition to these early financial challenges, West U needed significant technical advice, and so turned to friends at the Texas State Legislature for help. Multiple West U mayors made frequent road trips to the State Capitol, successfully seeding roots of partnership still evident today. Austin's \$16.9 million commitment to help fund Poor Farm Ditch repairs is recent evidence of this enduring partnership.

In December 1940, West University Place adopted its own home rule charter, giving our city the right of self-determination when it comes to passing local legislation.

Present-day West U is a model city, renowned for its financial stewardship, resident involvement, infrastructure, and quality of life. Beyond its enviable infrastructure, West U also leverages strong zoning, ordinances, and codes designed to protect the character of our city and our quality of life.

West U is still facing challenges, however. On June 14th, Governor Abbott signed House Bill 2127 passed by the Texas Legislator, and called the Texas Regulatory Consistency Act. You may have heard it referred to as the “Preemption bill” in the news, and as the “Death Star bill” by its opponents. This legislation is broad and contains controlling aspects that will affect our city. Perhaps the most onerous of these new terms is the provision that a city may not adopt a rule regulating conduct in a field of regulation occupied by another state law.

This new legislation has the potential to limit our City’s ability to sustain the unique set of local laws that help ensure our high standards for quality of life, including limiting West U’s ability to:

- 1) Design and enforce its own noise ordinance
- 2) Design and implement our own traffic safety rules
- 3) Regulate the keeping of farmyard animals
- 4) Restrict short-term property rentals
- 5) Enforce our unique and residentially focused building and zoning codes

Vague elements of this new legislation will make it difficult for cities to clearly understand their right to enforce current laws. Further, the State Legislature provided an attorney’s fee provision in the bill to encourage persons to challenge city ordinances based on possible preemption, virtually ensuring years of lawsuits that cities will have to navigate with significant financial exposure.

As the city’s history above makes clear, West U has had a century-long record of deciding how we want to be governed locally. Your City Council, of which I am honored to be a member, has survived the decades by establishing rules to craft the type of city in which, they, themselves, would want to live. If West U is to retain the unique characteristics with which we take pride, we need to retain control of our own destiny.

The City of Houston has joined other Texas cities in recently filing suit to challenge the State constitutionality of this new legislation. West U is evaluating the potential cost and merit of joining an existing suit, or possibly filing our own amicus brief. At issue is whether the State of Texas can usurp our constitutionally protected right to adopt and operate under a home rule charter. It’s a valuable right, and one that is worth fighting to keep.

The author would like to credit the history above to Janice Holt Lang’s excellent 1985 University of Houston Master’s thesis entitled, “Suburban Pioneers: The Origin of West University Place, 1919 – 1939.”