

Noack threatens petition to force public vote on Texas 249 toll road project

By Andrew DuBois, adubois@hcnonline.com Updated 10:13 pm, Monday, April 9, 2018

Photo: Jason Fochtman, Staff Photographer



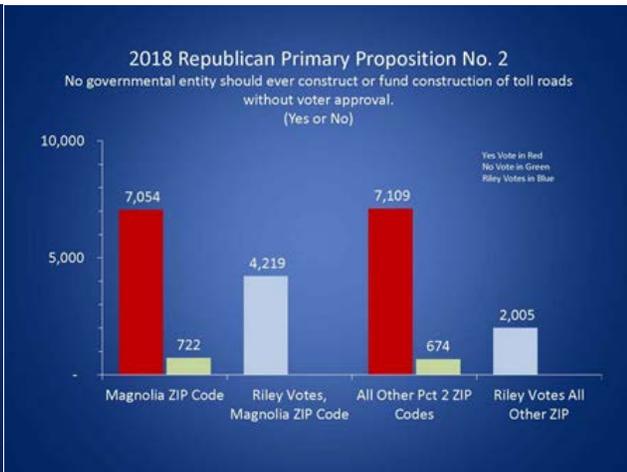
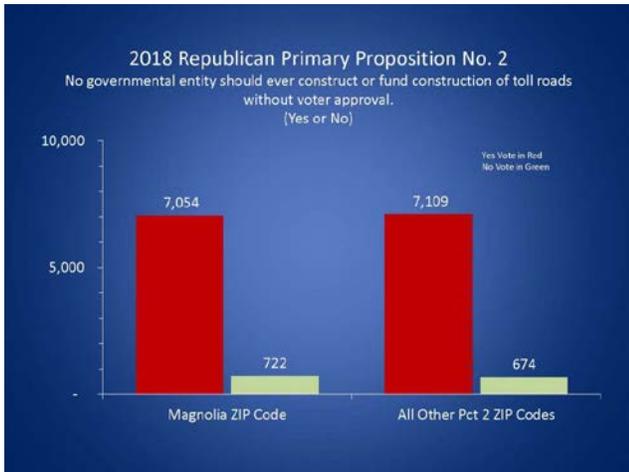
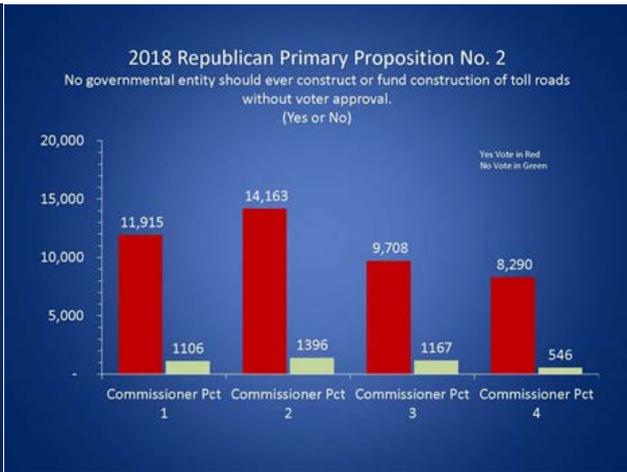
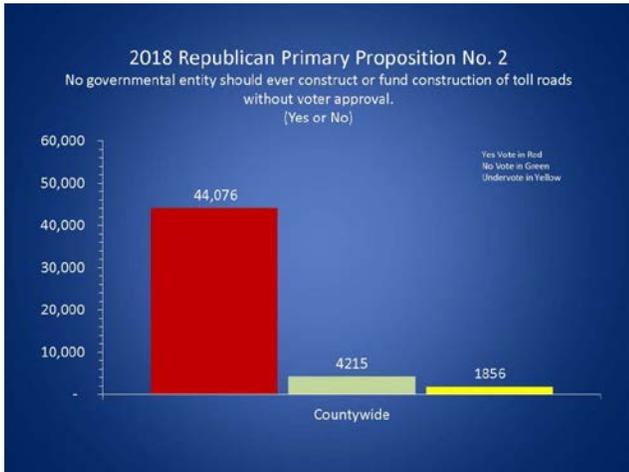
Montgomery County Precinct 3 Commissioner James Noack listens to a discussion on housing variances as it related to flooding during a Commissioners Court meeting at the Alan. B Sadler Commissioners Court Building, Tuesday, March 20, 2018, in Conroe.



Montgomery County Judge Craig Doyal listens to a discussion on housing variances as it related to flooding during a Commissioners Court meeting at the Alan. B Sadler Commissioners Court Building, Tuesday, March 20, 2018,

2018 Republican Primary Proposition No. 2

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There is a clear absence of support for the construction of toll roads throughout Montgomery County without voter approval.

Precinct 3 Commissioner James Noack says he plans on starting a petition to force a public vote on the controversial Texas 249 toll road project if members of Commissioners Court move forward with a \$56 million construction contract under a specific section of the Texas Transportation Code.

The Montgomery County Toll Road Authority, which consists of the four county commissioners and county judge, is scheduled to vote on awarding the bid for the project during the MCTRA meeting Tuesday morning following Commissioners Court. The court meeting starts at 9:30 a.m. at the Alan B. Sadler Administration Building, located at 501 N. Thompson St. in downtown Conroe.

The 3.6-mile stretch of Texas 249 – from Spring Creek to FM 1774 in Southwest Montgomery County – would be the second toll project ever built by the MCTRA. The first one was the Texas 242 flyovers at Interstate 45 – approved by voters in the 2005 road bond referendum. The county's portion of the Texas 249 project, also called the "Aggie Expressway" as it connects Houston to College Station, most recently was estimated to cost \$73 million.

The county received six bids, with the lowest being \$55.968 million from SpawGlass of Houston. In addition, the county previously loaned the MCTRA \$10 million for initial work on the project.

On Tuesday, the toll road authority also will consider approving the sale of revenue bonds to fund the project. Revenue bonds, unlike general obligation bonds, do not require voter approval and are paid back through revenue generated from the project, in this case the toll road.

However, while it does not require a bond election, Noack is threatening to move forward with a petition to call for one, as allowed by Section 284.037 of the Texas Transportation Code, which states: "The authority to issue revenue bonds is subject to the right of referendum ...". That is provided by Section 252.045 of the Local Government Code, which requires that the petition be signed by at least 10 percent of registered voters whose names appear as property taxpayers on the most recent tax rolls.

"As I understand it, MCTRA will use Texas Transportation Code 284 to issue the bonds," said Noack, who confirmed that with the MCTRA attorney, "which requires notice, which leads to the petition.

"It is a very high burden, so we would need to get the signatures of thousands of people. I am doing this because this is what the people want and the people expect."

More than 91 percent of Montgomery County Republican voters in the March primary supported a nonbinding statewide proposition that states: "No governmental entity should ever construct or fund construction of toll roads without voter approval." Precinct 2, where Texas 249 is located, had the largest number of voters (14,163) support the proposition.

Petition Challenges

Noack said he would hire an outside agency to spearhead the petition because it is an enormous undertaking with tens of thousands of signatures necessary. There were just under 320,000 registered voters as of the March primaries, meaning almost 32,000 signatures would be needed of eligible registered voters who also are property owners.

"That's a very high threshold; it's not an easy task at all," said County Attorney J D Lambright, who said the signatures probably would have to be cross-referenced between Montgomery County Elections Central and the Montgomery Central Appraisal District. In addition to potential issues arising with community ownership, Elections Administrator Suzie Harvey also brought up the potential problem of voter registration names not identically matching the names on the tax rolls.

First Assistant County Attorney B.D. Griffin said that since the statute doesn't name a particular person or entity responsible, Commissioners Court would be responsible for reviewing the signatures and therefore enlist the help of MCAD and Elections Central.

Contract Conundrum

Noack also believes that commissioners should not vote on the contract because the county auditor must certify funds for a purchase order to be opened and to issue a notice to proceed with the vendor. The MCTRA currently does not have the \$56 million required to certify the funds and award the contract to SpawGlass, he said.

However, Harris County previously agreed to loan the county approximately \$10 million for the project and there was discussion about the county judge and commissioners possibly approving another county loan to the MCTRA to cover the difference or a portion of it until revenue bonds are sold. Noack opposes that idea because he says it would deplete the county's fund balance.

Noack wants the MCTRA to defer votes on the contract and the issuance of revenue bonds.

The toll project

Initial projections targeted a Jan. 1, 2020, opening date, with first-year revenues expected to generate about \$4.4 million. According to a recent traffic and revenue study, the population of the region increased at a rate of 2.5 percent per year between 1970 and 2016, growing from 2.2 million to 6.8 million. Between 2015 and 2040, the study predicts the population will grow 1.6 percent a year, from 6.6 million to 9.7 million.

"Montgomery County's population is expected to grow even faster, at 3.1 percent per year over this same period (from half a million to 1.1 million)," the study states. "It is important to note that growth in traffic and revenue on this facility is highly dependent of future development in the corridor."

County Judge Craig Doyal previously said he was not surprised at the predicted success of the road. He said the county will have a 20-year payout on the toll road project. However, if the road generates more revenue than expected, a future court could use that money to pay off the Texas 249 toll road debt early, or put those funds to another project in the county.

According to the study, tolls would be \$1.25 at the main lane toll gantry and 50 cents at the ramps. The toll will be escalated annually by 2 percent per year. The first toll increase would be .025 cents.

The four-lane toll road that will extend from the Spring Creek Bridge to Pinehurst. Currently, there are three feeder lanes in each direction. The tolled section will be between the feeders. Motorists who do not want to pay the toll will continue to have the option to use the feeders that will remain free.

In June, the MCTRA agreed in a 3-2 vote to move forward with the project. Noack and Precinct 4 Commissioner Jim Clark were the nay votes.