

MINUTES, JANUARY 16, 2017; 2:00 PM
CITY OF FAIR OAKS RANCH HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas

I. ROLL CALL

Attendees: D. Deleranko, C. Fothergill, T. Jaster, G. Maxton, J. McConnell, D. Pearson, B. Regan, B. Sparks, and F. Trapasso.

Absent: J. Merritt and R. Nichols.

With a quorum present, Vice-Chair Trapasso opened the meeting at 1:58 PM.

II. CITIZENS/GUEST FORUM PRESENTATIONS

No one requested to be heard.

III. CONSENT AGENDA

A. January 9, 2017 Home Rule Charter Commission Meeting Minutes were approved by Commission Consensus.

IV. CONSIDERATION/DISCUSSION ITEMS

(Item B was discussed first).

B. Discussion and possible action on public comments received at the Town Hall Meeting held on January 12, 2017.

1. D. Deleranko addressed a citizen's comment regarding initiating a cap on the city manager's salary.

Motion: Made by D. Deleranko, seconded by B. Sparks to put a salary cap on the city manager not to exceed 4% of the general revenue fund.

Vote: 2-7; Motion Failed (C. Fothergill, T. Jaster, G. Maxton, J. McConnell, D. Pearson, and B. Reagan dissenting – F. Trapasso abstaining).

2. D. Deleranko addressed a citizen's comment regarding the appointment of the municipal court versus that position being elected. (See Attachment A for a summary of discussion as provided by D. Deleranko).

Motion: No motion was made.

A. Discussion and possible action on tabled Charter items from the December 19, 2016 meeting:

1. Section 5.01 (17) appointment, suspension or removal of city employees by the city manager.

2. Section 5.04 Office of city secretary.

Discussion ensued regarding the city manager's power to dismiss direct reports without council approval and the city secretary's hiring/firing by the city council. A compromise was sought to balance the power of the city manager by incorporating a five day notification to the city council of termination plans. A motion was not put forth.

Motion: Made by C. Fothergill and seconded by B. Regan to change Section 5.04 Office of City Secretary to report and be hired and fired by the city manager.

Vote: 6-3: Motion Failed (J. McConnell, B. Sparks, F. Trapasso dissenting).

Motion: Made by B. Sparks to have city secretary report to city council. Motion died for lack of a second.

3. Creation of Charter Review Commission.

Motion: Made by D. Pearson, seconded by B. Sparks that citizens shall be appointed at least every four years to review the Home Rule Charter and make recommendations to city council.

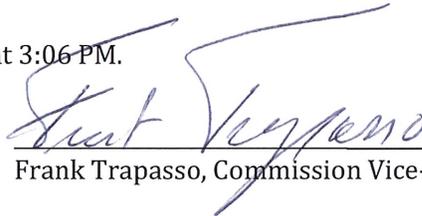
Vote: 7-2; Motion Failed (T. Jaster and B. Regan dissenting).

C. Discussion and possible action on Extraterritorial Jurisdiction (ETJ) and annexation sections of the Charter.

At the Town Hall Meeting, several questions were presented by citizens regarding zoning and ETJ. Commission recognized that these questions go beyond the scope of the Charter authority as these items fall under the responsibility of the city council. No action taken.

V. ADJOURNMENT

Vice-Chair Trapasso adjourned the meeting at 3:06 PM.



Frank Trapasso, Commission Vice-Chair

ATTEST:



Christina Picioccio, City Secretary

"D. Deleranko addressed the public comment voiced at the Town Hall meeting held on 12 January 2017 concerning the appointment of the municipal court judge by the City Council in lieu of publicly held elections. D. Deleranko stated that the commission had visited this issue back on 12 September 2016 and although competitive elections maybe the most democratic way to obtain qualified judges, the downside was that this method relied heavily on special interest money – specifically from law firms. Judicial corruption was therefore an inevitable consequence of the electoral process.

Appointment of the municipal court judge may remove the guise of judicial corruption but this often involves a disingenuous plea for judges to disqualify or otherwise recuse themselves from cases that involve their backers, (i.e. Appointment authorities in this case being the Mayor and City Council), and has the potential for opening the argument for cronyism. D. Deleranko was also concerned that the appointment of the judge by the Mayor and City Council further unbalanced the distribution of power and concentrated the appointment authority in only one governing body thereby jeopardizing the checks and balances critically necessary in a democratic form of government.

The qualities most need in a court of law require independence, impartiality and adherence to the rule of law. Accordingly, D. Deleranko recommended the City of Fair Oaks Ranch adopt a merit selection system utilized by 2/3rds of the states developed by retired Supreme Court Justice Sandra Day O'Connor. In this judicial appointment system, prospective judges apply to a non-partisan nominating commission on which non-lawyers participate. Candidate applications and credentials maybe viewed by the public on-line, all commission hearing are open and public comment would be invited. The commission would then produce a short list of qualified candidates and the City Council would then select the judge from that list based on a simple majority vote. The judges would then be subject to a performance evaluation every year by the City Council and a follow-on public vote on whether to reappoint them or turn them out of office.

B. Regan stated that the current draft of the charter already included a system of checks and balances that parallels the U.S. Constitution to which D. Deleranko strongly disagreed. T. Jaster also took issue with the proposed merit selection system stating that it was overkill for a small city municipal court that mainly adjudicates speeding tickets and deer feeding ordinance violations. When asked if he was willing to entertain a motion to formally reintroduce the merit selection system for a vote on the matter, D. Deleranko declined stating that without the necessary political support of the limited number of attendees present, it would serve no useful purpose and the issue was removed from further consideration".

David M. Deleranko