



CITY OF FAIR OAKS RANCH
AGENDA – CITY COUNCIL REGULAR MEETING
July 2, 2015; 9:30 a.m.
Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn

I. ROLL CALL – DECLARATION OF A QUORUM

II. OPEN MEETING

A. Pledge of Allegiance.

III. EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body will convene into closed session to consult with the City Attorney on the Notice for Amendment of Development Agreement with The Reserve at Fair Oaks Ranch

IV. RECONVINE INTO OPEN MEETING

V. CITIZENS and GUEST FORUM / PRESENTATIONS

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chamber. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda.

A. Citizens to be Heard

VI. CONSIDERATION ITEMS

New Business:

A. Discussion on City Council meetings using Telephone, Video Conferencing, or Internet.

– Alderman Hartpence

B. Discussion on amending City Resolution regarding City Council Meeting Rules of Procedure.

– Alderman Hartpence

C. Discussion on proposed wording for Resolution on conducting surveys of citizens.

– Alderwoman Havard

Old Business:

A. Consideration on amending the City of Fair Oaks Ranch code of ordinances chapter 13; article 13.03; section 13.03.014; water loss appeal adjustment procedure.

– Public Works Director

VII. REPORTS FROM STAFF / COMMITTEES / COUNCIL

Interim City Administrator – Update on the draft Ordinance delineating the duties and responsibilities of the City Administrator.

VIII. REQUESTS TO PLACE ITEMS ON A FUTURE AGENDA

IX. ADJOURNMENT

Signature of Agenda Approval:



I, Priscilla Abrego, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times. Said Notice was posted by 5:00 p.m., Friday, June 26, 2015 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to *Tex Gov't Code* Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

SUBCHAPTER F. MEETINGS USING TELEPHONE, VIDEOCONFERENCE, OR INTERNET

Sec. 551.125. OTHER GOVERNMENTAL BODY.

(b) A meeting held by telephone conference call may be held only if:

- (1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and*
- (2) the convening at one location of a quorum of the governmental body is difficult or impossible; or*
- (3) the meeting is held by an advisory board.*

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

Sec. 551.045. EXCEPTION TO GENERAL RULE: NOTICE OF EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

- (1) an imminent threat to public health and safety; or*
- (2) a reasonably unforeseeable situation.*

The City Council may hold a meeting by Video Conference in compliance with Texas Government Code Section 551.127:

Sec. 551.127. VIDEOCONFERENCE CALL.

(a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(a-1) A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section.

(a-2) A member of a governmental body who participates in a meeting as provided by Subsection (a-1) shall be counted as present at the meeting for all purposes.

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 2

(c) A meeting of a governmental body may be held by videoconference call only if:

(1) the governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;

(2) the member of the governmental body presiding over the meeting is present at that physical space; and

(3) any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 159 (S.B. 984), Sec. 1

(c) A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

(d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 2

(e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location of the physical space described by Subsection (c)(1).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 159 (S.B. 984), Sec. 1

(e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

(f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 2

(h) The physical location specified under Subsection (e) shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the

meeting, to the members of the public in attendance at the physical location described by Subsection (e) and at any other location of the meeting that is open to the public.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 159 (S.B. 984), Sec. 1

(h) The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

(i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(j) The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

As you can see the text of Section 551.127 is very complex and somewhat confusing. Here is an excerpt from the Texas Attorney General's 2014 Handbook on Open Meetings:

"Section 551.127 addresses meetings by videoconference call. Generally, the Act permits a governmental body to hold an open or closed meeting by videoconference call when conducted under section 551.127. Prior to the 2013 regular legislative session, section 551.127 set out provisions on the conduct of a videoconference call meeting when a quorum of the governmental body was present at one location or when only a majority of the quorum was present at one location. Two 2013 enactments amended section 551.127: House Bill 2414 and Senate Bill 984. Section 551.127 still generally requires a quorum of the governmental body to be physically present for a videoconference call meeting "except as provided by Subsection (c)." Yet the two 2013 enactments yield two separate subsection (c)s, each containing different requirements related to the location of a videoconference call meeting. Both 2013 enactments contain requirements as to the audio and visual equipment that must be available to allow all participants in the videoconference call meeting to be able to see and hear each other during the meeting. Senate Bill 984 provides that if a problem results in the meeting being no longer visible and audible to the public, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned. Additionally, the two enactments contain two subsection (e)'s with differing notice requirements for meetings held by videoconference call. Unchanged by the two enactments is the provision that permits a governmental body to allow a member of the public to testify at a meeting from a remote location by videoconference call without regard to whether a member of the governmental body was participating in the meeting by videoconference call.

The enactment of House Bill 2414 and Senate Bill 984 raises many questions, none of which have been addressed by a judicial opinion."

Charles E. Zech

**PROPOSED AMENDMENTS
TO THE
CITY COUNCIL MEETING RULES OF PROCEDURE**

Rule 12. Withdrawal of Items. The City Administrator and/or Mayor may withdraw an item on the meeting notice prior to the Council meeting, but in withdrawing an item that has been posted, shall state the reason therefor which reason shall be posted and transmitted to the Council. *An item on the meeting notice proposed by an Alderman may not be withdrawn without the Alderman's agreement.*

Rule 30. Public Participation. Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation. Speakers should register in advance and should limit their presentations to three minutes each. Speakers should direct all remarks and questions to the Council. The presiding officer may refer a matter for investigation, response or other action. The "Texas Open Meetings Act" requires the City to post a notice, in advance, listing every topic or subject to be considered by the Council. This law may prevent the Council from considering a subject raised by a member of the public.

Citizen comments may be made during the "Citizens to be Heard" portion of both regular and special Council meetings. Citizen comments may also be made after the Council's discussion of each agenda item requiring a vote as described in Rule 17. During the "Citizen's to be Heard" portion of the meeting:

- 1. A citizen desiring to address the Council shall sign in prior to the beginning of the meeting.*
- 2. When asked, the citizen shall step to the lectern, state their name and address, and then speak to the Council.*
- 3. Citizen comments may be no more than five minutes unless a majority vote of the Council extends the allotted time.*
- 4. Total time for citizen comment shall be limited to 60 minutes on a first-come, first-served basis unless a majority vote of the Council extends the allotted time.*
- 5. If the subject of the citizen's comment directly and exclusively addresses an item on the published agenda:
 - a. In addition to a comment, each citizen may ask questions of the Council members either generally or directly to specific Council members.*
 - b. Council members may respond to the citizen's comment, ask questions of the citizen and answer the citizen's question(s).**
- 6. If the subject of the citizen's comment does not address an item on the published agenda, the Council may not respond per Section 551.042 of the Texas Government Code unless:
 - a. A statement of specific factual information is given in response to the inquiry.*
 - b. A recitation of existing policy is given in response to the inquiry.*
 - c. A proposal is made to place the subject on the agenda for a subsequent meeting.**

During the citizen comment portion of each agenda item (refer to Rule 17):

- 1. The Presiding Officer shall ask for citizens wishing to comment or ask a question of the Council to form a line behind the podium.*
- 2. When asked, each citizen shall step to the lectern, state their name and address, and then speak to the Council.*
- 3. Extended citizen comments regarding an agenda item should be made during the "Citizens to be Heard" portion of the meeting and not during the Council's discussion of the agenda item. Citizen comments and/or questions should be brief and may be terminated at the discretion of the Presiding Officer.*

Council members may respond to the citizen's comment, ask questions of the citizen and answer the citizen's question(s).

**PROPOSED WORDING FOR
RESOLUTION ON
CONDUCTING SURVEYS OF CITIZENS**

Scope of Rules. These rules shall govern the conduct of the Mayor, Council and employees performing surveys of citizens in the City of Fair Oaks Ranch.

Council Approval prior to Survey Process. Any/all proposed surveys of citizens will be brought before the Council for approval prior to survey initiation.

Requirements for Council Approval. Required information, before Council approval of Survey, shall include:

1. Desired survey goal or objective
2. Proposed questions and rating scale to be used, if applicable
3. Timeline for conducting the survey, presentation of results to Council and public release of results
4. Population to be surveyed and whether or not employees will participate in the survey
5. If survey will solicit anonymous or non-anonymous feedback
6. Method of disseminating, advertising and/or notification (email, US Mail, website, telephone) to citizens of survey and release of results
7. Who will be involved in collection of results and analysis of results

Use of a Professional Survey Firm. If a professional firm is recommended, or determined by Council, a cost must be included prior to Council approval. If not budgeted, determination of cost is to be made.

ORDINANCE 2015-01

OF THE CITY OF FAIR OAKS RANCH, AMENDING THE CODE OF ORDINANCES CHAPTER 13; ARTICLE 13.03; SECTION 13.03.014 "WATER LEAK OR EXCESS CONSUMPTION; WATER LOSS APPEAL ADJUSTMENT PROCEDURE"; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City of Fair Oaks Ranch is the owner and operator of the water facilities that serves the citizens of Fair Oaks Ranch; and,

WHEREAS, the Fair Oaks Ranch Utilities Department (FORU) conducts the day-to-day operations and maintenance of the City's water and sewer system; and,

WHEREAS, in efforts to reach the city's water conservation goal of 160 gallons per capita, per day, FORU has installed automatic meters for accurate reporting of water use.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

SECTION I. Amendment

A. Chapter 13; Article 13.03; Section 13.03.014 (e) is amended as follows:

(e) The customer's monthly water bill for the billing period of the water loss incident shall be computed or adjusted using automatic meter infrastructure recorded data.

B. Chapter 13; Article 13.03; Section 13.03.014 (f) is deleted.

SECTION III. SEVERABILITY AND EFFECTIVE DATE

If for any reason any section, paragraph, subsection, clause, phrase, word, or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a Court of competent jurisdiction it shall not affect any other section, paragraph, subsection, clause, phrase, work or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subsection, clause, phrase, work, or provision hereof be given full force and effect for its purpose.

This Ordinance shall take effect immediately upon its passage and approval.

PASSED AND APPROVED this the 2nd day of July, 2015

Cheryl Landman, Mayor

ATTEST:

APPROVED AS TO FORM:

P. Abrego, City Secretary

C. Zech, City Attorney