

**CITY OF FAIR OAKS RANCH
AGENDA – CITY COUNCIL REGULAR MEETING**

November 3, 2016; 9:30 am
Public Safety Building Training Room, 7286 Dietz Elkhorn

I. ROLL CALL – DECLARATION OF A QUORUM

II. OPEN MEETING

Pledge of Allegiance.

III. 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.

B. Presentation of I Love My School video by A. Leonard, BISD PTO.

IV. CONSENT AGENDA

All of the following items are considered to be routine by the City Council, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Council Member by making such request prior to a motion and vote.

A. Approval of September 19, 2016 Special City Council Meeting Minutes. 3-4

B. Approval of October 6, 2016 Regular City Council Meeting Minutes. 5-13

C. Approval of Resolution 2016-22 appointing the Fair Oaks Ranch City Secretary. 14-15

V. DISCUSSION/CONSIDERATION ITEMS

A. Discussion and possible action regarding the Fair Oaks Ranch Homeowners Association Memorandum of Understanding (MOU) for the Arbors Preserve. Mayor Manitzas/Alderman Hartpence 16-22

B. Discussion and possible action of appointing a City liaison to the Boerne Independent School District. Alderwoman Patel/City Administrator Maples 23

VI. REPORTS FROM STAFF / COMMITTEES / COUNCIL

A. Capital Improvements Advisory Committee Semiannual Progress Report. Chairman John Merritt 24

B. Comprehensive Plan Update Report City Administrator Maples

VII. CONVENE INTO EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body hereby convenes into closed session to discuss the following matters:

A. Section 551.071; Consultation with the City Attorney regarding Cause No. 2016-CI-05444; the City of Fair Oaks Ranch, Texas vs R.W. Pfeiffer Properties, LLC.

VIII. RECONVENE INTO OPEN SESSION

IX. ADJOURNMENT

Requests for City topic needing additional information/research; or, potential consideration for a future agenda.

Signature of Agenda Approval: _____

Gary Maniza

I, C. Vanzant, Interim 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 5:30 p.m., October 28, 2016 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).

**CITY OF FAIR OAKS RANCH
CITY COUNCIL MEETING MINUTES - SEPTEMBER 19, 2016
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015**

I. ROLL CALL – DECLARATION OF A QUORUM

Council Members Present: Mayor Pro Tem Schmidt, Alderman Elizondo, Alderman Hartpence, Alderwoman Havard, and Alderwoman Patel.

Council Members Absent: Mayor Manitzas

Having a quorum present, Mayor Pro Tem Schmidt called the Special City Council meeting to order at 9:30 a.m.

II. CITIZENS and GUEST FORM/PRESENTATIONS

No one requested to be heard

III. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action on approving an Ordinance adopting the fiscal year budget for fiscal year beginning October 1, 2016 and ending September 30, 2017

MOTION: Made by Alderman Elizondo, seconded by Alderwoman Havard approving an Ordinance adopting the FY2016-17 budget.

DISCUSSION: Alderman Hartpence stated he has yet to receive his requested information on Ag Exemptions and noted his concerns that some residents are not paying their fair share. Alderwoman Havard concurred with Alderman Hartpence. Being that the City does not establish Ag Exemption rules and rates, City Administrator Maples asked for staff time to do research on Ag Exemption and bring back their findings at a later meeting.

RECORD VOTE: 5-0; Motion Passed.

Mayor Pro Tem Schmidt - Aye

Alderwoman Havard - Aye

Alderwoman Patel - Aye

Alderman Elizondo - Aye

Alderman Hartpence - Aye

B. Consideration and possible action on ratifying the property tax increase reflected in the FY2016-17 budget

Mayor Pro Tem Schmidt noted that since the FY2016/17 budget raises more in revenue from property taxes than in the FY2015/16 budget, Council must vote to ratify that increase. He also noted that this vote is in addition to and separate from the vote that adopted the budget and the vote to set the tax rate.

MOTION: Motion made by Alderman Hartpence, seconded by Alderwoman Patel to ratify the property tax increase reflected in the FY2016/17 budget. .

DISCUSSION: None

VOTE: 5-0; Motion Passed

C. Consideration and possible action on approving an Ordinance levying a property tax rate of \$.32336 per \$100 taxable valuation on property in the City of Fair Oaks Ranch for the 2016 tax year; determining due and delinquent payment dates; and providing for early payment discounts.

Mayor Pro Tem Schmidt noted the property tax rate breakdown for funding the approved budget is \$.2815 for M&O and \$.04186 for I&S and that continuance of the early payment discounts was previously requested by City Council.

MOTION: Made by Alderman Hartpence, seconded by Alderwoman Havard to approve an Ordinance levying \$.32336 per \$100 valuation as the 2016 property tax rate and authorizing early payment discounts of 3%, 2% and 1%.

DISCUSSION: None

VOTE: 5-0; Motion Passed

D. Consideration and possible action on approving an Ordinance authorizing property tax exemptions for the 2016 tax year.

Mayor Pro Tem Schmidt noted that pursuant to the Texas Tax Code, Council has the option of deciding to offer certain exemptions. Historically, Council has authorized \$5,000 for homestead and \$20,000 for 65 and over, if the owner is a full-time resident in the homestead.

MOTION: Made by Alderman Elizondo, seconded by Alderwoman Patel to approve an Ordinance authorizing the 2016 property tax exemptions: \$5,000 for homestead, \$20,000 for 65 and over, if the owner is a full-time resident in the homestead, and that which is required by law for disabled veterans.

DISCUSSION: Alderman Hartpence, again, requested a review and findings of exemptions be brought back to Council for discussion

VOTE: 5-0; Motion Passed

F. Consideration and possible action on approving an Employee Recognition Program.

Human Resources Specialist Stahr stated that on July 7, 2016, City Council was supportive of the staff proposal to begin an Employee Recognition Program by first creating an Employee of the Quarter Award. Today Council is being presented with the policy/administrative procedure in selecting the Employee of the Quarter recipient.

MOTION: Made by Alderwoman Havard, seconded by Alderman Elizondo to approve an Employee Recognition Program

DISCUSSION: Alderman Hartpence stated he liked the award being an 8 hour vacation day. When asked by Mayor Pro Tem Schmidt what happens if a committee member is a nominee, Alderwoman Havard stated a replacement will be appointed to the Committee. Human Resources Specialist Stahr stated all city employees are eligible to be a recipient except for the City Administrator

VOTE: 5-0; Motion Passed

IV. ADJOURNMENT

Mayor Pro Tem Schmidt adjourned the meeting at 10:00 a.m.

Garry Manitzas, Mayor

ATTEST:

C. Vanzant, Interim City Secretary

**CITY OF FAIR OAKS RANCH
CITY COUNCIL MEETING MINUTES - OCTOBER 6, 2016
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015**

I. ROLL CALL – DECLARATION OF A QUORUM

Council Members Present: Mayor Manitzas, Mayor Pro Tem Schmidt, Alderman Hartpence, Alderwoman Havard, and Alderwoman Patel

Council Member Absent: Alderman Elizondo

Having a quorum present, Mayor Manitzas called the Regular City Council meeting to order at 9:30 a.m.

II. PLEDGE OF ALLEGIANCE

Led by Laura Koerner, resident

III. CITIZENS and GUEST FORUM/PRESENTATIONS

None

IV. CONSENT AGENDA

MOTION: Made by Alderman Hartpence, seconded by Alderwoman Havard to approve the September 1 and September 15, 2016 regular City Council meeting minutes.

VOTE: 4-0; Motion Passed

V. CONSIDERATION/DISCUSSION ITEMS

A. Discuss and consider possible action on Roadway Reconstruction Drainage Easement Agreements for properties located at 7660 Intrepid Drive, 7730 Intrepid Drive, 31040 Meadow Creek Trail, and 7245 Silver Spur Trail

Public Works Director Emmons stated the Roadway Reconstruction Project contains several drainage improvements to be constructed in conjunction with adjacent streets in the Bond project. During the engineering work, four easements will be required to allow the City to construct and maintain the appropriate drainage improvements. Agreements have been provided to property owners with one owner requesting compensation as his property is being used for storm water runoff that originates from another property. After researching comparable real estate transactions in the area, staff negotiated the details of the Agreement which includes a \$17,000 compensation to purchase the easement, temporary fencing to secure the undisturbed portions of the property, permanent access gates with a probable installation of a new driveway access, installation of an electrical conduit, and a one-year tree preservation guarantee.

When asked by Alderwoman Havard, Emmons confirmed the Agreements have not been signed. When asked by Alderwoman Patel why only the property owners on 7730 Intrepid were being paid compensation, Emmons stated the other property owners are willing to have their properties used as they will benefit from the improvement. Alderwoman Havard noted flooding not only occurs on private properties but on a public roadway. When asked by Alderman Hartpence where the compensation is being funded from and when the project is completed, will the easement cause a decrease in the property value, Emmons stated the funds will be paid by the Bond and the property will have notable changes as a tree is being removed, a manhole will be installed and a gate will be placed to which the property owner is being compensated for. Alderwoman Patel had questions regarding language obligating the city to preserve trees at 7730 Intrepid for one year. Emmons noted the extent of the City's tree preservation plan including protecting the integrity of the torn up area and watering trees. Alderwoman Patel asked that the Agreement be strengthened with increased clarity of the tree

preservation clause from the city side and property owner side so that there's no future misunderstanding on who is responsible. City Attorney Zech noted that the Agreement has the negligence standard of care and in the event of factual dispute, it would be decided on whether or not the city acted reasonably. When asked by Alderwoman Patel for staff's opinion, Emmons stated only one tree will be affected and the city's liability would be low. Alderwoman Patel asked to revise language clarifying that the City will take reasonable care but in the event that the one tree needs to be replaced, the City will be responsible.

MOTION: Made by Alderwoman Havard, seconded by Alderman Schmidt to approve drainage easements on 7760 Intrepid Drive, 7730 Intrepid Drive, 31040 Meadow Creek Trail, and 7245 Silver Spur Trail as detailed in the proposed Agreements but to add in the 7730 Intrepid Drive Agreement a strict liability statement, and to authorize the City Administrator to sign said Agreements.

VOTE: 4-0; Motion Passed.

B. Discuss and consider possible action on the Fountains Drainage Alternative A or B of the bid tabulation for the Roadway Reconstruction and Water Improvement Projects presented at the September 1, 2016 City Council meeting

MOTION: Made by Alderman Hartpence, seconded by Alderwoman Havard to make this agenda item a discussion only.

DISCUSSION: Alderman Hartpence noted at the September 1 Council meeting Council had voted not to include The Fountains subdivision in the Roadway Reconstruction Project and feels no action is required. Alderwoman Havard concurred and stated several meetings and conversations have been held regarding whether the City can use public funds on private property and that the City has a master drainage plan in the works to address not only this issue but approximately 45 other drainage issues. Alderwoman Patel deferred to the decision made by the Mayor and City Administrator to place this item as a discussion and possible action noting that it still allowed for discussion only if that was what Council decided.

VOTE: 3-1; Motion Passed (Nay: Alderwoman Patel)

Public Works Director Emmons presented drawings of the Subdivision and the flooding issues. He noted Alternative A is a pipeline that will be laid between the current drainage easement through the Subdivision and that Alternative B is a pipeline that will be laid in the public right-of-way along Ralph Fair Road down Dietz Elkhorn. Alderwoman Havard asked if road degradation would occur along Dietz Elkhorn due to water velocity. Emmons stated although there is already a concrete channel, Staff has not completely analyzed this option and as such, A is the preferred method. He further noted other issues with Alternative B includes going around a right of way is problematic, trees need to be removed, heavy discharge will occur on Dietz Elkhorn, and land/road erosion could occur. When asked by Mayor Manitzas if high curbing is successful in water drainage, Emmons stated yes and has thought of using this method but has not, at this time, looked at it in depth. When asked by Mayor Pro Tem Schmidt if A or B are not done, would we consider curbing. Emmons stated yes as curbing can assist water to drain in the appropriate path. Emmons continued his presentation by stating Harper Brothers, the road reconstruction project contractor, has notified the City they are unable to extend the 30-day bid value due to subcontractor agreements and as such, no action today will affect the original awarded bid price. When asked by Alderman Hartpence, Emmons noted the project should start in 4-5 months, first being the drainage followed by road repair. When asked by Alderwoman Patel if the City had designed and asked for the two Alternatives, Emmons responded yes.

1. Harry Thomas, 29015 Tivoli Way, asked where does the liability of the flooding issue lie as he believes The Fountains was to be a catch basin and not a residential subdivision? He stated the City needs to be more diligent and careful in their review of plats/plans as The Fountains should never have been approved. Again, is the City liable even if their action was unknowingly?

2. Kathy Phillips, 29018 Tivoli Way, stated her home is constantly affected by flooding waters coming from Windemere and Fair Oaks Parkway...she can't sell her home, furniture is on blocks, five homes are affected, the subdivision road constantly is in need of repairs, and that 60 residents can't alone fix the issue. As such, the City should be a partner in fixing the issue (see Exhibit A attached).

3. Jim Havard, meeting attendee, stated he's noticed the drainage easements in The Fountains have been filled in by landscape materials and asked if the easements were restored as purposed, would that relieve the issue? Emmons noted Staff would need to evaluate the channeling as he is not sure the current easements are wide enough. Cody Phillips, meeting attendee, stated that even if the easements were re-purposed, he does not believe it would help.

Mayor Pro Tem Schmidt read a hand out detailing his justification of using bond funds for The Fountains drainage issue (see attached Exhibit B). Alderwoman Havard stated water has always flowed from Windemere down to The Fountains area, the approved subdivision plat, at the time, met the city standards, there are over 45 drainage issues in the City - some with homes totally flooded and the City needs to prioritize all these issues, is concerned Dietz Elkhorn will be impacted by the velocity of the water, and feels The Fountain issue needs to be a planned and fact based decision and not based on emotions. When asked by Alderwoman Patel if any geotechnical modeling had been done to study downstream impacts of these Alternatives and also asked about the history of the Alternatives. Emmons stated no to the first question and that Alternative A was a result of brainstorming by him and his staff. Alderwoman Patel stated that she did not feel that there was enough technical and scientific assessment of the Alternatives and its potential impacts overall. Alderman Hartpence summarized his notes (see attached Exhibit C) from the September 28, 2016 Save the Fountains Town Hall meeting he attended. As for tonight's discussion he is concerned with the use of public funds for a private purpose and recommends Council articulate "public purpose" in a formal document, the approved Bond needs to be used for street improvements - if Council continues with drainage, a second legal opinion should be sought, and that 5 of the 47+ existing drainage issues have homes flooded and prioritization of each needs to be done. Mayor Manitzas noted the City has not done an outstanding job in planning for the future and that the Council has addressed this in this fiscal year's budget by funding Plans/Projects to address current issues. He recommends addressing city-wide drainage in a complete and thorough thought including providing answers to what's included in a drainage plan, how quickly can the projects be completed, resources of funding, and establishing a prioritization method. Alderman Hartpence stated the City has a wound that is bleeding that needs fixing and asks that any future workshop/discussion be focused on the five (as noted in previous meetings) urgent properties. Mayor Manitzas, Alderwoman Patel, and Alderwoman Havard express their desire to prioritize the contract development for the master drainage plan and holding a workshop when more new drainage data is available from the consultant. City Administrator Tobin stated the contract, hopefully, could be brought for Council consideration in the November.

VI. **REPORTS FROM STAFF**

None

VII. **EXECUTIVE SESSION**

A. Pursuant to Section 551.101 and 551.071 of the Open Meetings Act, Texas Govt Code, City Council convened at 12:05 p.m. into closed session to consult with the City Attorney regarding Cause No. 2016-CI-5444; the City of Fair Oaks Ranch vs R.W. Pfeiffer Properties, LLC.

VIII. **RECONVENE INTO OPEN SESSION**

City Council reconvened into Open Session at 12:50 p.m. and took no action

IX. **ADJOURNMENT**

Mayor Manitzas adjourned the meeting at 12:51 p.m.

Garry Manitzas, Mayor

ATTEST:

C. Vanzant, Interim City Secretary

9/28/2016 - SAVE THE FOUNTAINS TOWN HALL MEETING NOTES

Handout for Fair Oaks Ranch Mayor, City Council, and the City Administrator to Consider at the October 6, 2016 City Council Meeting

Roy Elizondo, Steve Hartpence & 25 Fountain residents & other concerned Ranch supporters attended a "Save The Fountains Town Hall Meeting" on 9/28 in the Phillips home.

The points discussed below were from meeting notes and emails after the Town Hall Meeting. These reasons explain why the City Council should vote in favor of one of the bond alternatives that would help The Fountains from being flooded by city storm water runoff from Fair Oaks Parkway.

*First, if drainage work is done on Fair Oaks Parkway, the conflict is gone as Fair Oaks Parkway is a public road and the work would prevent flooding of Fair Oaks Parkway as well as flooding in the Fountains. The public reason it would be OK to cure or mitigate flooding in the Fountains is because the City's failure to better manages the storm water runoff that comes from Windermere and crosses Fair Oaks Parkway has created a condition that causes damage to homes, yards, and the street in the Fountains.

(Kathy Phillips Note: This massive amount of storm water drainage run off from the parkway has caused damage to homeowners, our street & drainage sluice.)

*If work is done on Tivoli Way in order to fix the inadequate drainage from Fair Oaks Parkway, that's a public purpose - curing the drainage issue and abating the damage the inadequate drainage is causing.

*The Fountains Neighborhood is in a bad situation and the City Council should not act like the drainage issue isn't something the city needs to do something about.

*Regarding developers. The City's Subdivision Regulations (Chapter 10 of the City Ordinances) requires subdivision developers to obtain various approvals before they begin construction. One approval involves drainage plans. Per Article V, Section 1.A of Exhibit A (follows Article 10.04 in the Code of Ordinances), "The Subdivider [developer in the Fountains' case] shall provide an adequate storm drainage system to protect each lot throughout the subdivision from flooding." The regulations require the drainage plan be submitted for review by the City Engineer and eventually be approved by the City Administrator. Whether the developer

proposed adequate drainage or not, the City Engineer and City Administrator approved the developer's plan, so there's likely some responsibility on the City's part if drainage on Tivoli Way is inadequate.

*The City OKed the plan and under the Subdivision Regulations, that implies the City thought the developer's drainage plan would meet the requirement to protect each lot throughout the subdivision from flooding.

*Texas Constitution. Article I, section 17(a) of the Texas Constitution says: "No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for: [two listed purposes]." An argument could be made that by not diverting the water flow from Windermere across Fair Oaks Parkway, the City is using Tivoli Way/the Fountains as drainage for Fair Oaks Parkway. Since allowing the storm water to flood the Fountains damages homes, yards, and the street, using Tivoli Way as drainage could violate section 17(a) unless the City compensates the affected homeowners.

(Kathy Phillips Note-The only drainage the Parkway has is into The Fountains subdivision. The Parkway has no storm drains, no curbs, and no gutters.)

The bond legal counsel states infrastructure improvements such as adding non-existent drainage to The Parkway & Dietz Elkhorn would improve the infrastructure of The Parkway & Dietz Elkhorn. This would get the water out of The Fountains and would be covered under the Bond.

***Adam Gilles-29106 Tivoli Way**-stated on 9/28 at a Town Hall Meeting that he had to pay \$12,000 to fix a 48-inch retaining wall that was damaged during the October 2015 flooding.

***Cody & Kathy Phillips-29018 Tivoli Way** have lost about \$18,000 NOW with 3 major home floodings—this does not include the new carpet that will need to be purchased and installed in the Master Suite and Bath after the City's drainage issues have been resolved. _

***HOA spent \$6,533 in 2015 on Tivoli Way** for asphalt repair, cracksealing and a concrete trough. This was done because of the excessive storm water runoff from the parkway. Our 30 homes would not have needed to repair Tivoli Way that early and would have waited until the street totally needed resurfacing.

(Kathy's Notes: It is expensive to keep up a private home and private street. There is potential for a decrease in neighborhood property values if the word gets around that the City is causing damage to private property and has no plans to do anything about it.)

Residents' comments to Council on 9/1/2016...

Cody Phillips ...

- More water over the years from developments in and out of Fountains.
- Should it have been foreseen ?
- Their engineers have told them there is nothing they can do. Most of problem is on Parkway side.
- It would be a Public use of funds by eliminating a danger or public harm.

Harry Thomas ...

- When Fountains was approved there was no hydrological study.
- City approval was a flawed process...City has responsibility.

Max Roesch ...

- 70 % of water not theirs... it's Windermers'... NOT OUR WATER.

- **Fountains and Intrepid/Robin Dale have been included for long time in bond work plans and several times briefed to Council.**

- **Council minutes are ...**

Oct 15, 2014 ... bond initiative briefed including **addressing drainage issues.**

Nov 19, 2015... Cody Phillips showed video of Oct 30 2015 flooding and asked for " speed up" of the drainage project. At same Council meeting the contractor (Pape-Dawson) presented Preliminary Engineering report including " **Fountains** subdivision, Meadow Creek trail and Intrepid/Robin Dale drainage issues ".

Feb 4, 2016.... Pape -Dawson gave quarterly project report including the design phase submittal for drainage and utilities.

May 19, 2016 ...Pape- Dawson gave quarterly project report giving updated schedule, probable costs for roads and drainage and highlighted Intrepid/Robin dale and the **Fountains**. This briefing **included a Fountains design aerial chart showing the Alternative A and B routes.**

Jun 16, 2016 Ron Emmons and Pape-Dawson gave project updates saying the construction priorities were doing Intrepid/Robin Dale first, **Fountains second** and other drainage and culverts.

47 drainage issues... at the recent briefing by Ron on 47 drainage issues the chart # 34 showing the **Fountains** and drainage easements had in the description ... " **Large amount of runoff from Windermere crosses Fair Oaks Parkway and is intercepted by homes. This issue will be addressed as part of the Road Bond Project** ".

Sep 1, 2016 ... " City Attorney Santee concurred with City Attorney Zech and Bond Attorney's previous opinion as there is latitude in the Constitution regarding use of public funds on private property, but it is City Council who determines if a project is a public purpose and whether they want to mitigate the situation or not . "

- **The attorneys say it can be done.** Appropriate file justification documentation can be done. It is an appropriate use of public funds directly related to the bond Parkway project.
- Design work has already been done and paid.
- Construction equipment and personnel will be in the area and makes sense to do at same time. Less cost and time.
- **Rectifies a situation that was not caused by residents.** Has become worse in recent years.
- **Fountains residents don't have the resources to fix this** nor can they do anything outside their subdivision.
- Existing culvert on Parkway doesn't allow much water to flow under wall and water is diverted along the wall.
- The Phillips have been flooded 4 times and have spent \$ 18,000 on it. Another resident has spent \$ 12,000. The Phillips now have a bare concrete floor in their bedroom and furniture is on blocks. Several folks have placed sandbags. 6 to 8 homes are directly affected.
- \$ 6,500 spent by homeowner's HOA in 2015 on Tivoli way for a drainage concrete trough, asphalt repair and crack sealing because of excessive storm water runoff from the Parkway.
- **Real estate values are significantly affected.**
- **Most of the water generates OUTSIDE of the Fountains** from Parkway, Windermere and Pimlico.
- HOA indicated it might consider giving a reasonable dollar contribution or fund replacement trees. If Alternative B is done, the HOA could address the water from inside the Fountains themselves.
- Alt B keeps most of the water from entering the Fountains.
- There is a lot of blame that can be discussed, however the **City has responsibility for the welfare of residents and home values.** This major problem will not go away. Situation comes from several factors...
 - City drainage requirements/reviews
 - Developer / builder plans
 - Mother nature rains
 - Upstream development changes
 - Homeowners' diversions
 - Ground shifting over the years

Each drainage issue in the city must be reviewed based on its' own facts. The City must step to its' "greater good" responsibility and work to correct the Fountains situation which has been planned since the Bond project inception and protect home values. A reversal of previous Council understandings and direction is inappropriate and would affect the trust that City residents have in us. It would be a negative precedent. It is not consistent with the Council's role to safeguard City assets.

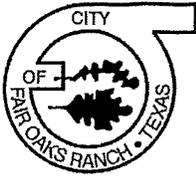
Al Schmidt
10/5/16

PLAN TO FUND THE FOUNTAINS' STORMWATER DRAINAGE PROJECT

1. Through a Council resolution, clearly state the public purpose of correcting stormwater drainage problems throughout the city.
2. If bond money is to be used, return to our bond counsel with a complete description of the project including why, as the bond counsel stated, this project is necessary to "protect the integrity of the new street improvements."
3. Whatever the source of funds, clearly state why this project is the number one priority compared to others on our list.
4. Develop a plan that includes financial support for the project from The Fountains HOA. I expect the city to bear the lion's share of the cost, but it is important to have support from the residents directly affected.

Steve Hartpence

10/6/16



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS

AGENDA WORDING: Approval of Resolution 2016-22; Appointing the Fair Oaks Ranch City Secretary

START/END DATE: October 21, 2016

DEPARTMENT: Administration

PRESENTED BY: Consent Agenda

INTRODUCTION/BACKGROUND:

At the September 15, 2016 City Council meeting, the City Administrator was authorized to utilize a selection process for the City Secretary position based on the leadership model defined by Council during the FY16-17 budget process. The process utilized by Senior Staff was as follows:

1. City Administrator reviewed all applications and established a list of qualified candidates. The Mayor also reviewed the applications and provided feedback to the City Administrator.
2. Human Resources scheduled interviews with qualified applicants.
3. As a group, Senior Staff interviewed each applicant and privately, the City Administrator interviewed each candidate.
4. Senior Staff and City Administrator met and discussed their findings.
5. City Administrator extended a job offer *subject to Council ratification and appointment.*

City Council, on October 21 at its regular Council meeting, *ratified* the City Administrator's recommendation to appoint Ms. Christina Picioccio as the City of Fair Oaks Ranch City Secretary. After approval of ratification, the City Administrator noted a Resolution *officially appointing* Ms. Picioccio would be brought to the November 3 City Council meeting for action.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

The City Secretary is an exempt employee and funded as a full-time equivalent in the FY2016-17 budget.

RECOMMENDATION/PROPOSED MOTION:

I move to approve Resolution 2016-22 appointing the City of Fair Oaks Ranch City Secretary.

RESOLUTION 2016-22
APPOINTING A CITY SECRETARY FOR THE CITY OF FAIR OAKS RANCH

WHEREAS, the Fair Oaks Ranch City Secretary resigned from the position as City Secretary effective August 8, 2016; and,

WHEREAS, on October 20, 2016, the City Council ratified the city staff's selection of Christina Picioccio as City Secretary, and,

WHEREAS, pursuant to LGC 22.071, the City Secretary is an officer of the City; and,

WHEREAS, the City Council now finds it necessary to appoint, by Resolution, a City Secretary.

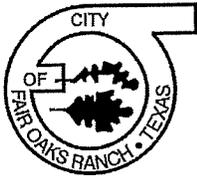
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, that Christina Picioccio is appointed as City Secretary.

PASSED AND APPROVED this the 3rd day of November, 2016

Garry Manitzas, Mayor

ATTEST:

C. Piccicio, City Secretary



CITY COUNCIL CONSIDERATION ITEM CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Discussion and possible action regarding the Fair Oaks Ranch Homeowners Association Memorandum Of Understanding (MOU) for the Arbors Preserve

DEPARTMENT: City Council

PRESENTED BY: Mayor Manitzas/Alderman Hartpence

INTRODUCTION/BACKGROUND:

In February 2016 City Council approved a Development Agreement for the property known as the Arbors. The Agreement includes 74.89 acres of a Preserve Area to be conveyed (or attempt to be conveyed) to FORHA before March 1, 2017. If FORHA declines to take ownership, developer shall convey the Area to the City.

Since approval, various conversations have been held by FORHA and the City Council. The attached MOU is a result of these conversations, and applies only if the Area is conveyed to FORHA. Terms of the MOU need to be voted upon by the City Council and the FORHA Board to be effective.

A. Version 2, of the attached, tracks the changes of the working MOU:

1. Deleted original point 4: "Access Gates: City and FORHA will mutually agree to the location and design of access control gate (s for the access road, nature preserve parking area and city-owned 5-acre tract."
2. Moved "If Developer does not pay for the access control gate(s), the cost will be City responsibility" to new point 4 as second sentence.
3. Added point 5, Setterfeld Easement Access, which was requested by FORHA.

Comment:

FORHA's ownership starts at the trailhead. FORHA does not own the road into the preserve or the 5-acre tract dedicated to the City. FORHA is not required to maintain either of these areas. The Unit HOA or City will decide on gate locations (if any) for the areas dedicated to them. The access road easement document that will be created between the unit HOA and City will ensure access for City and FORHA members.

The intent is to provide FORHA the same access it currently has at other parks such as the gate behind Cibolo Trails subdivision. At that gate multiple parties (FORHA and CPS) have access to the trail for their respective needs.

B. Version 3 is a clean draft to date for Council consideration.

FAIR OAKS RANCH HOMEOWNERS ASSOCIATION (FORHA)

Version 2 (track Changes)

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FORHA INPUT TO ARBORS PRESERVE MEMORANDUM OF UNDERSTANDING (MOU):

Note: Over the past 30 years FORHA has accepted ownership of ~156 annexed acres from FAIRCO. 40 plus acres (of the 156) remain in a natural state. FORHA due diligence, which includes membership input to this issue, is required before any FORHA board decision will be made. This decision represents a potential 48% increase in common property owned and operated by FORHA on behalf of its members.

Assumption: The Arbors Preserve property will be platted and annexed by the City before FORHA acceptance.

Purpose and Scope: The purpose of the MOU is to document at a high level the mutually agreed rights and obligations of the City and FORHA should FORHA agree to accept the Arbors Preserve area. The Scope of the property included in the MOU is the 75 acre Arbors Preserve property, the 5 acres owned by the City, and the Easement through the buffer zone to include an access road and associated parking lot to provide for access to the city property and Arbors Preserve area.

Acceptance of Terms: Terms of the MOU need to be voted upon by the City council and the FORHA board. Assuming both parties vote to move forward, the MOU will need to be signed by the FORHA President and the City Mayor to be effective.

This MOU only takes effect in the event that FORHA takes possession of the Arbors Preserve property. If this does not happen, then there is no purpose to the MOU. If FORHA takes possession of the ~~property~~ property, then the following MOU will be binding on both parties.

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FAIR OAKS RANCH AND FORHA

REGARDING THE ARBORS PRESERVE

1. **PURPOSE:** The purpose of the MOU is to document the mutually agreed rights and obligations of City and FORHA should FORHA agree to accept the Arbors Preserve area. The scope of the property included in the MOU is the 75 ~~acres~~ acres Arbors Preserve property, the 5 acres to be owned by City, and the easement through the buffer zone to include an access road and associated parking lot to provide for access to the city property and Arbors Preserve area. These areas are as defined in the Development Agreement, specifically Exhibit B, Concept Plan.
2. **ENTRANCE ROAD AND PARKING LOT MAINTENANCE RESPONSIBILITY:** City will be responsible for maintaining the access road from Ralph Fair Road to the City's property and facilities located within the Arbors Preserve area. City will also be responsible for maintaining the parking lot to be located along the access road.
3. **PARKING LOT LOCATION:** The Development Agreement Concept Plan shows the parking lot located in an undesirable location. Both City and FORHA desire to have the parking lot located as close to Cibolo Creek as possible. City will work with Developer to place the parking lot in the optimum location. Prior to City's final decision, City will consult with FORHA.
3. **ACCESS GATES:** City and FORHA will mutually agree to the location and design of access control gate(s) for the access road, nature preserve parking area and city-owned 5-acre tract. ~~If Developer does not pay for the access control gate(s), the cost will be City responsibility.~~
- 5.4. **CONTROL AND SECURITY:** Access gate at trailhead will be secured and accessible by multiple authorized parties as is currently done in other FORHA parks. If Developer does not pay for the access control gate(s), the cost will be City responsibility. The language in the access road easement document between the City and the Unit HOA will ensure access at all times for the city and FORHA members. Given that the Arbors Preserve is private property owned by FORHA within the City's jurisdictional boundaries to be used exclusively by members of FORHA who are also residents of the City, the City's Police Department will provide police protection services to the Arbors Preserve at the same level police protection services are provided throughout the City of Fair Oaks Ranch.

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5. SETTERFELD EASEMENT ACCESS: City will allow FORHA access to the Arbors Preserve through its Setterfeld easement for purposes of maintaining the property and emergency evacuation, but not for purposes of recreational access.

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6. **USE OF CITY-OWNED 5 ACRES:** In determining the use and development of its property within the Arbors Preserve, City will consider the aesthetics and other impacts to the FORHA property within the Preserve. In addition, the City will confer with FORHA on the purpose, design and placement of facilities prior to finalizing plans and beginning construction.
7. **PROPERTY TAX:** City recognizes that FORHA is legitimately concerned about the unquantified cost of annual property tax for the Arbors Preserve. If annual tax valuation has not been determined in writing by 11/15/2016, City will work with Developer to amend the Development Agreement to require the assessed valuation be determined before the property is transferred to FORHA.
8. **AG-EXEMPTION ROLLBACK TAX:** Developer has agreed to pay any ag-exemption rollback taxes. If rollback taxes have not been paid by 11/15/2016, City will work with Developer to amend the Development Agreement to require Developer to pay rollback tax before the property is transferred to FORHA.
9. **FORHA RESPONSIBILITY:** FORHA is responsible for maintenance of the Arbors Preserve trail system to the same level of care as existing rustic FORHA trails.

DRAFT

FAIR OAKS RANCH HOMEOWNERS ASSOCIATION (FORHA)

Version 3 (Clean)

FORHA INPUT TO ARBORS PRESERVE MEMORANDUM OF UNDERSTANDING (MOU):

Note: Over the past 30 years FORHA has accepted ownership of ~156 annexed acres from FAIRCO. 40 plus acres (of the 156) remain in a natural state. FORHA due diligence, which includes membership input to this issue, is required before any FORHA board decision will be made. This decision represents a potential 48% increase in common property owned and operated by FORHA on behalf of its members.

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MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF FAIR OAKS RANCH AND FORHA

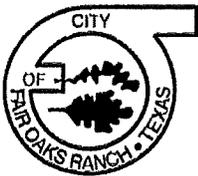
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CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Boerne ISD City Council Liaison
START/END DATE: November 3, 2016
DEPARTMENT: City Council/Administration
PRESENTED BY: Alderwoman Patel/City Administrator

INTRODUCTION/BACKGROUND:

During the budget process and recent Strategic Planning session, City Council emphasized the importance of leveraging the enormous citizen talent we have in our community to assist operational efforts to define and enhance interlocal governmental partnership building activities. The creation of a Home Rule Charter Commission, Communications Committee, Finance and Investment Committee, and Wildlife Management Committee are ongoing examples of the City's proactive approach to advance this initiative.

Recognizing outstanding school districts such as Boerne Independent School District (BISD) provide a multifaceted value add to our City, our interlocal governmental partnership with BISD is considered a priority. Recent efforts by Mayor Manitzas to reach out to BISD relative to mutual ingress/egress concerns at the Fair Oaks Ranch Elementary campus is an excellent example as positive results were realized creating a win/win scenario for BISD and the City.

Due to growth within the region, BISD is currently advancing plans to build a second Fair Oaks Ranch elementary campus. Accordingly, Alderwoman Patel and the City Administrator initiated internal discussions to ensure the City continues the Mayor's proactive efforts to cultivate, enhance, and advance our partnership with BISD. To date we have met with the BISD Superintendent to introduce Ms. Patel, learn more about their plans for establishing new facilities within the City, and share our thoughts relative to the importance of planning *with* the community. By way of background, the Superintendent echoed the importance of the partnership and stated he was extremely happy with the positive working relationship between BISD and the City.

Appointing a City Council Liaison charged with leading this partnership approach will prove to be an asset as we advance ideas to update and create foundational plans and tools charged with building on the uniqueness of our City and protecting the investment of our citizenry.

Alderwoman Patel has been instrumental in framing this outreach effort and has indicated a desire to serve as the City Council BISD liaison.

RECOMMENDATION/PROPOSED MOTION:

I move to approve Alderwoman Patel as the City of Fair Oaks Ranch City Council liaison to BISD.

To: Honorable Mayor Garry Manitzas and City Council Members
City of Fair Oaks Ranch

**Capital Improvements Advisory Committee Semiannual Progress Report
September 2016**

Overview:

A Capital Improvements Plan is required by LGC §395, Financing Capital Improvements Required by New Development in Municipalities, Counties and Certain other Local Governments; to identify capital improvement or facility expansions required by new service units projected; and to include a description of the service area and projection of changes in land uses, densities, intensities, and population in the service area over a 10-year period. Since the City imposes an impact fee, a periodic review shall be performed at least every five years to determine the need of updating the plans and/or impact fees.

Land use assumptions and projects to support proposed growth were evaluated and a Water and Wastewater Impact Fee report was prepared by Freese and Nichols dated August 4, 2014. On December 18, 2014, City Council issued Ordinance No. 2014-18 that increased the Water Impact Fees from \$1,669.58 to \$5,400.00 and Wastewater Impact Fees from \$1,006.95, to \$1,550.00. (The maximum allowed per the Freese and Nichols study was \$6,209 and \$2,290 respectively.)

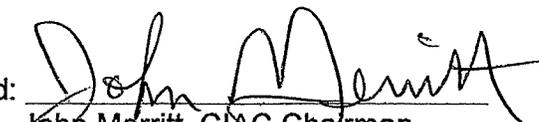
By Ordinance No. 2016-03 the Council established that the Impact Fees in place at the date of recordation of a subdivision plat should apply to that development.

Progress Report:

The Capital Improvements Advisory Committee and Staff met at 8:30 AM on Monday, September 12, 2016 to review and evaluate the current land use assumptions and capital improvements plan. To date the City has not received any of the most recently established higher Impact Fees. There are some additions and deletions of expected connections along with some changes in expected system cost since the August 2014 Freese & Nichols study but they mostly offset one another. The Committee is exploring options of increasing the impact fees and will confer with the City Attorney, therefore, no recommendations will be made at this time pending additional details and information.

The next LUA/CIP/Impact Fee CIAC Meeting is scheduled for Monday, March 6, 2016 at 9:00 AM at which time the Committee will again review the appropriateness of the current Impact Fees and if there is justification for any update in the City's Land Use Assumptions and CIPs.

Signed: _____


John Merritt, CIAC Chairman

Date: _____

