



**CITY OF FAIR OAKS RANCH
HOME RULE CHARTER COMMISSION MEETING**

August 8, 2016; 2:00 p.m.
City Hall - Council Chambers
7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015

I. ROLL CALL

II. CITIZENS and GUEST FORUM / PRESENTATIONS

To address the Home Rule Charter Commission, 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

III. CONSENT AGENDA

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

A. Approval of July 25, 2016 and August 1, 2016 Home Rule Charter Commission Meeting Minutes.

IV. CONSIDERATION/DISCUSSION ITEMS

- A. Review and provide any applicable guidance to City Attorney regarding proposed language approved by Commission at previous Commission meeting.
- B. Consideration and possible action on prohibitions on conduct and consequences for violation of prohibitions; quorum necessary for action and meetings; City Council Procedures; vacancies in office and filling of vacancies; creation of departments including legal and court, City Manager; and elections process and procedures.

V. ADJOURNMENT

I, Priscilla Abrego, City Secretary, certify that the above Meeting Notice 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., August 3, 2016 and remained so posted continuously for at least 72 hours before said meeting was convened.

MINUTES, JULY 25, 2016; 2:00 P.M.
CITY OF FAIR OAKS RANCH
HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. ROLL CALL

Attendees: Frank Trapasso, Bill Sparks, Dale Pearson, Greg Maxton, Conrad Fothergill, David Deleranko, Tom Jaster, John Merritt, Rich Nichols, and James McConnell.

Absent: Bill Regan

The meeting was called to order at 2:08 p.m.

II. CITIZENS/GUEST FORUM/PRESENTATION

No citizens/guest requested to be heard.

III. CONSENT AGENDA

MOTION: Made by Conrad Fothergill, seconded by David Deleranko to approve the July 11, 2016 and July 18, 2016 Home Rule Charter Commission minutes.

VOTE: 10-0; Motion Passed

IV. CONSIDERATION/DISCUSSION ITEMS

A. Discussion, consideration, and possible action on creating Home Rule Charter Commission (HRCC) meeting policies and procedures

HRCC members agreed new policies and procedures should be drafted that are specific to their needs. Carole Vanzant, Deputy City Administrator and Priscilla Abrego, City Secretary agreed to draft a sample for their consideration/ discussion at the next meeting.

MOTION: Made by James McConnell, seconded by Tom Jaster to approve using the City Council meeting Policies and Procedures.

VOTE: 1-9; Motion Failed (Naye Frank Trapasso, Bill Sparks, Dale Pearson, Greg Maxton, Conrad Fothergill, David DeLeranko, Tom Jaster, John Merritt, and James McConnell)

B. Review and provide any applicable guidance to City Attorney regarding proposed language for form of government and composition of City Council as approved by Commission.

The HRCC discussed and reviewed the proposed language on the form of government, powers, and composition. All HRCC members were in agreement.

C. Consideration, and possible action on City Council qualifications, and procedures of City Council, including quorum, voting, residence minimum age and other relevant qualifications and procedures; mayor pro-tem; term limits; filling vacancies; council meetings; duties, powers and authority of the Mayor; council pay.

Term Limits:

MOTION: Made by David Deleranko, seconded by Bill Sparks to approve term limits.

VOTE: 8-2; Motion Passed (Naye Frank Trapasso and Tom Jaster)

MOTION: Made by John Merritt, seconded by David Deleranko to include term limits into the body of the charter.

VOTE: 8-2; Motion Passed (Naye Frank Trapasso and Tom Jaster)

MOTION: Made by Bill Sparks, seconded by John Merritt to approve different term limits for Councilmembers than the Mayor's position.

VOTE: 10-0; Motion Passed

1st MOTION: Made by Bill Sparks, seconded by John Merritt to approve two consecutive (three year) terms, sit out one year, and then run for one more term.

VOTE: 10-0; Motion Passed

2nd MOTION: Made by David Deleranko, seconded by John Merritt to approve two consecutive (three year) terms, sit out one year, and then run for two more terms with a lifetime max of twelve years.

VOTE: 9-1; Motion Passed (Naye Bill Sparks)

MOTION: Made by David Deleranko, seconded by Tom Jaster to approve a three year sit out term for Councilmembers.

VOTE: 9-1; Motion Passed (Naye Frank Trapasso)

MOTION: Made by Tom Jaster, seconded by John Merritt to approve the Mayor term be considered independent from Council and allow the Mayor to serve two (three year) terms in a lifetime.

VOTE: 10-0; Motion Passed

MOTION: Made by Tom Jaster, seconded by Bill Sparks to approve anyone serving two years or more constitutes a term; a term begins when they take their oath of office.

VOTE: 10-0; Motion Passed

MOTION: Made by James McConnell, seconded by David Deleranko to approve anyone serving two years or more constitutes a term; a term begins when they take their oath of office.

VOTE: 10-0; Motion Passed

Qualifications:

MOTION: Made by James McConnell, seconded by David Deleranko to approve following the Mont Belvieu Charter, Page 2, Section 3.03 Qualifications, which states, "The Mayor and each Council Member shall meet the following: a) Be a qualified voter in the City and State at the time of taking office b) Be a resident of the City c) Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election d) Not be in violation of any provision in this Charter e) Be 21 years of age or older on the first day of the term to be filled at the election f) Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate."

Repealing item E. and replacing it with "Be 18 years old on election day or older on the first day of the term and no candidate for office shall file in a single election for more than one elected office or position."

VOTE: 10-0; Motion Passed

V. **ADJOURNMENT**

Rich Nichols, Home Rule Charter Commission President adjourned the meeting at 4:15 p.m.

Frank Trapasso, Home Rule Charter Commission Vice
Chair

ATTEST:

P. Abrego, City Secretary

MINUTES, AUGUST 1, 2016; 2:00 P.M.
CITY OF FAIR OAKS RANCH
HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, TX 78015

I. ROLL CALL

Attendees: Frank Trapasso, Bill Sparks, Dale Pearson, Greg Maxton, Conrad Fothergill, David Deleranko, Tom Jaster, John Merritt, and James McConnell.
Absent: Bill Regan and Rich Nichols.
The meeting was called to order at 2:00 p.m.

II. CITIZENS/GUEST FORUM/PRESENTATION

No citizens/guest requested to be heard.

III. CONSENT AGENDA

MOTION: Made by Bill Sparks, seconded by David Deleranko to remove the July 25, 2016, Commission minutes and bring them back at the next meeting for approval.
DISCUSSION: Bill Sparks requested the minutes to be amended regarding term limits.
Vote: 9-0; Motion Passed

IV. CONSIDERATION/DISCUSSION ITEMS

A. Discussion, consideration, and possible action on creating Home Rule Charter Commission (HRCC) meeting policies and procedures.

Conrad Fothergill recommended a few typographical corrections be made to the HRCC meeting policies and procedure document.

MOTION: Made by Conrad Fothergill, seconded by Frank Trapasso to approve the HRCC meeting Policies and Procedures with recommended changes.

VOTE: 9-0; Motion Passed

B. Review and provide any applicable guidance to City Attorney regarding proposed language approved by Commission at previous Commission meeting.

The HRCC discussed and reviewed the proposed language on the form of government/powers, boundaries, term limits (Council and Mayor), and number/selection/term. All HRCC members were in agreement.

C. Consideration and possible action on City Boundaries, general and specific powers of the City Council, powers of the Mayor, prohibitions on conduct and consequences for violation, quorum necessary for action and meetings, Council meeting requirements, City Council Procedures, City Council Compensation and the creation of departments.

Boundaries:

MOTION: Made by Tom Jaster, seconded by Greg Maxton, to approve adopting the boundaries verbiage Section 2.01 as provided by Charlie Zech, City Attorney, which states, "The boundaries of the City of Fair Oaks Ranch shall be the same

as existed prior to adoption and ratification of this Charter and as are more fully set out and described by the official city map of the City of Fair Oaks Ranch.”

VOTE: 9-0; Motion Passed

Extension of Boundaries:

1st MOTION: Made by James McConnell, seconded by Conrad Fothergill to approve adopting the extension of boundaries - annexation verbiage Section 2.02 as provided by Charlie Zech, City Attorney, which states, “The City Council shall have the full power to annex territory, to extend and enlarge the city boundaries and exchange areas with other municipalities”.

VOTE: 9-0; Motion Passed

2nd MOTION: Made by Bill Sparks to approve amending the first motion by adding the additional verbiage “...in areas of more than one hundred people.”
Motion failed for lack of a second.

Contraction of Boundaries-Disannexation:

1st MOTION: Made by David Deleranko, seconded by John Merritt, to approve adopting the contraction of boundaries - disannexation verbiage Section 2.3 as provided by Charlie Zech, City Attorney, which states, “Any area of the City may be disannexed pursuant to any procedure allowed under state law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may discontinue said territory as part of the City by ordinance after conducting a public hearing on the matter”.

VOTE: 9-0; Motion Passed

Powers:

1st MOTION: Made by John Merritt, seconded by James McConnell, to approve adopting the powers Section 1.02 as provided by Charlie Zech, City Attorney, which states, “The City of Fair Oaks Ranch shall have the power of local self-government to the fullest extent permitted by law. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied and specific powers necessary to carry into execution those powers and those express, implied and specific powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and action of City Council.”

VOTE: 9-0; Motion Passed

2nd MOTION: Made by Bill Sparks, seconded by David Deleranko, approve adding the wording, “...accept as otherwise limited in this charter” to the section which provides for the powers of the City.

VOTE: 9-0; Motion Passed

MOTION: Made by David Deleranko removing the Mayor's veto power.
Motion failed due for lack of a second.

1st MOTION: Made by John Merritt, seconded by Bill Sparks, to approve adopting Monte Belvieu Charter, Section 3.06, Item A, B, and C titled Mayor, which states, "a) The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law, b) The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council, and c) The Mayor shall, when authorized as necessary by the City Council, sign all official documents."

VOTE: 8-1; Motion Passed (Naye David Deleranko)

2nd MOTION: Made by David Deleranko amending the motion by removing the wording, "...by the governor of purposes of military law."
Motion failed for lack of a second.

MOTION: Made by Bill Sparks, seconded by John Merritt, to approve adopting Monte Belvieu Charter, Section 3.07, Mayor Pro-Tem, which states, "a) A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election b) The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor."

VOTE: 9-0; Motion Passed

Council Meeting Requirements:

MOTION: Made by Bill Sparks, seconded by James McConnell, that City Council must meet once a month, during the evening (after 6 p.m.), in the Council Chambers, at City Hall, or other designated location.

VOTE: 9-0; Motion Passed

City Council Compensation:

1st MOTION: Made by David Deleranko, seconded by Tom Jaster, to approve adopting Bellmead Charter, Section 14, Page 6, Compensation of Members, which states, "Councilmen shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties."

VOTE: 9-0; Motion Passed

2nd MOTION: Made by Bill Sparks, seconded by John Merritt, to approve amending the motion by adding the wording found in the Mont Belvieu Charter, Section 3.05, Item B, Compensation, second sentence which states, "The policy

regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.”

VOTE: 9-0; Motion Passed

V. **ADJOURNMENT**

Frank Trapasso, Home Rule Charter Commission Vice Chair adjourned the meeting at 3:58 p.m.

Frank Trapasso, Home Rule Charter Commission Vice
Chair

ATTEST:

P. Abrego, City Secretary

Section 1.02 - Powers.

- A. The City of Fair Oaks Ranch shall have the power of local self government to the fullest extent permitted by law.
- B. Except where specifically limited in this Charter the City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas or other law together with all of the implied and specific powers necessary to carry into execution those powers and those express, implied and specific powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants.
- C. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and action of City Council.

Section 3.03 - Judge of Qualifications.

The City Council is the final judge of all elections and the qualifications of its members.

Section 3.04 - Compensation

- A. Members of City Council shall serve without pay or compensation; provided, however, they shall be entitled to all necessary expenses incurred in the performance of their official duties.
- B. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.

Section 3.05 - The Mayor

- A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.
- B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council.
- C. The Mayor shall, when authorized as necessary by the City Council, sign all official documents.
- D. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance. Nominations for appointment shall be by a process approved by majority vote of the City Council.

Section 3.05 - The Mayor Pro-Tem

- A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.
- B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

Section 3.05 - Meetings

- A. The City Council shall hold at least one regular meeting per month at City Hall or other place designated by City Council. Said meeting to be held no earlier than 6:00 pm local time.
- B. The regular meeting times, and places shall be set by resolution.

Boerne

Section 3.09 - Prohibitions.

- A. **Holding Other Office.** Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold any other City office or employment during the term for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the Council. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the City on the governing board of any regional or other intergovernmental agency.
- B. **Appointments and Removals.** Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- C. **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 3.12, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 10.02 - Prohibitions.

- A. **Activities Prohibited:**
 - 1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, national origin, sex, political or religious opinions or affiliations.
 - 2. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provision, rules and regulations.
 - 3. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
 - 4. No person related within the second degree by affinity, or within the third degree by consanguinity to any elected officer of the City, or to the City Manager, shall be appointed to any office, position, or clerkship or other service of the City, but this prohibition shall not apply to officers or employees who have been continuously employed by the City for not less than two (2) years prior to the election or appointment of the officer related in the prohibited degree.
- B. **Penalties.** Any person who by himself or with others willfully violates any of the provisions of paragraphs one (1) through four (4) shall be guilty of misconduct and shall be subject to immediate forfeiture of his office or position after hearing by the City Council. An affirmative vote of four (4) Council Members shall be required to compel forfeiture of the office or position.

Cibolo

Sec. 3.07. - Prohibitions.

- (1) Except where authorized by law or by this Charter, no Mayor or Council Member shall hold any other City office or City employment during his/her term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive office or City employment until two (2) years after the expiration of the term for which they were elected or appointed to the City Council.
- (2) Members of the City Council shall not in any way dictate the appointment or removal of the City administrative officers or employees whom the City Manager or any of the City Manager's subordinates are empowered to appoint. The City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter, the City Council shall deal with City officers and employees, who are subject to the direction and supervision of the City Manager, solely through the City Manager. The City Council shall not give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.
- (4) Neither the City Council, individual Council Members, nor the Mayor shall dictate to the City Manager the appointment of any person to office or employment except those positions otherwise provided for by in the Charter. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or prevent him/her from exercising professional judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the Council nor any member not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

Mont Belvieu

Section 3.09 - Prohibitions.

- A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.
- B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until three (3) years after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.
- C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as whole and its individual members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.

D. It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to office or employment. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

New Braunfels

Sec. 3.08. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no Councilman shall hold any other City office or employment by the City during the term for which he was elected to the City Council, and no former Councilman shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he was elected to the City Council.
- (b) *Appointments and removals.* Neither the City Council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided in this Charter, but the City Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- (c) *Interference with administration.* Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its members shall give orders to any such officer or employee, either publicly or privately.
- (d) *Admission of liability.* Neither the City Council nor any of its members shall accept or admit liability or pay any claim for damages asserted against the City without first obtaining a written opinion from the City Attorney regarding the City's liability therein.

Sec. 12.03. - Prohibitions.

- (a) *Activities prohibited.*
 - (1) In appointments to and removal from any City office or employment, persons shall not be favored or discriminated against because of race, sex, political or religious opinions, or religious affiliations.
 - (2) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
 - (3) No City official or employee, elected or appointed, shall orally, by letter, or otherwise solicit or assist in soliciting any assessment, subscription, or contribution for any political party or political purpose whatever from any subordinate city official or employee holding any compensated City position.

- (4) No person who holds any compensated City position shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate.
 - (5) Neither the Mayor nor any other member of the City Council, nor any elective or appointive officer of the City, shall be directly or indirectly in the employ of any person, company or corporation, holding or seeking to hold any franchise from the City of New Braunfels, or shall receive directly or indirectly any wage, commission, fee, gift, favor or payment from such franchise holder, and any violation of this section shall ipso facto render vacant the office held by the person violating it.
- (b) *Penalties.* Any person who by himself or with others violates any of the provisions of paragraphs (1) through (3) of the preceding subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person who by himself or with others violates any of the provisions of paragraph (4) of the preceding subsection (a) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars (\$100.00). Any person convicted under this section shall be ineligible for a period of five (5) years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.