



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

October 31, 2016; 2:00 p.m.

Public Safety Building – Training Room
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 September 26 , 2016 Home Rule Charter Commission Meeting Minutes.

IV. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action on initiative, referendum and recall; general provisions; planning and zoning; presentation by City Staff regarding land use approval processes

V. ADJOURNMENT

I, C. Vanzant, certify this 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 2:00 p.m., October 28, 2016 and remained so posted continuously for at least 72 hours before said meeting was convened.

MINUTES, SEPTEMBER 26, 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: T. Jaster, B. Sparks, D. Pearson, C. Fothergill, D. Deleranko, F. Trapasso, B. Regan, and G. Maxton, J. Merritt, J. McConnell and President R. Nichols

President Nichols opened the meeting at 2:00 p.m.

II. CITIZENS/GUEST FORUM PRESENTATIONS

No one requested to be heard.

VI. CONSENT AGENDA

A. Approval of September 12, 2016 Home Rule Charter Commission Meeting minutes

VOTE: None – no motion received

VII. CONSIDERATION/DISCUSSION ITEMS

A. Consider meeting dates of October 10 due to Columbus Day Holiday and October 24, 31 and November 7 due to Federal Election

Due to conflicts on October 10, 24, 31, and November 7, options were discussed regarding the meeting dates, times and locations. By consensus it was agreed:

1. To move the October 10 meeting to October 11; same time/location
2. To hold the October 24, 31, and November 7 meetings at an alternate location

B. Review and provide any applicable guidance to City Attorney regarding proposed language approved by the Commission at previous meetings regarding Passage of Ordinance and Municipal Court

After a review, Commission members, by consensus agreed to the proposed language.

C. Consideration and possible action on Municipal Court; City Manager; creation of departments; elections process and procedures; and initiative, referendum and recall

After a review, Commission members, by consensus agreed no changes needed to the proposed language in Section 4; Municipal Court.

Discussion was held on the creation of the City Manager position, appointment/removal of, and duties and responsibilities of.

MOTION: Made by J. McConnell, seconded by J. Merritt to approve City Manager; Appointment and Removal: *“A majority of the City Council is required to appoint and remove the City Manager. The City Manager shall serve at the will of the governing body”*

AMENDMENT: Made by D. Deleranko, seconded by F. Trapasso to amend the first sentence to: *“Two-thirds of the City Council is required to appoint and, a single majority to remove the City Manager”*.

VOTE: 11-0; Motion Passed.

A discussion was held regarding classifying the City Manager as Chief Executive Officer or Chief Administrator of the City.

MOTION: Made by J. Merritt, seconded by T. Jasper to approve, under creation of the City Manager position the following: *"The City Manager is the chief administrator of the City and shall be responsible for the proper and efficient management of the affairs and day-to-day operations of the City. The City Manager shall report to and shall receive policy direction from the whole of the City Council"*.

VOTE: 11-0; Motion Passed.

After a review of the duties and responsibilities of the city's current City Administrator, the following motions were made:

MOTION: Made by G. Maxton, seconded by B. Regan to approve:

- a. The City Manager is responsible for implementing the ordinances and policies adopted by the City Council and for upholding State and federal laws and regulations.*
- b. The City Manager attends and participates in City Council Meetings but has no vote.*
- c. The City Manager shall supervise the preparation of agendas for all meetings of the City Council. The agendas shall be prepared in accordance with Rules and Procedures adopted by the City Council.*
- d. The City Manager provides staff support services to the Mayor and Council members.*
- e. The City Manager has a professional obligation to provide recommendations and advice to the City Council on City policy issues.*
- f. The City Manager conducts research and analyses to assist the City Council in the formulation of policy.*

VOTE: 11-0; Motion Passed

MOTION: Made D. Deleranko, seconded by J. McConnell to approve:

- g. The City Manager shall initiate and assist the City Council in the development of short term objectives and long term goals for the City and assist in the formulation of strategies to achieve such objectives and goals.*

VOTE: 11-0; Motion Passed.

D. Deleranko requested the word "balanced" be used when referring to the budget. See Exhibit A attached as to B. Regan's thoughts on budget. City Attorney Zech reviewed state law (LGC102) noting it's a requirement for the fiscal year budget to be balanced.

MOTION: Made J. Merritt, seconded by D. Deleranko to approve:

- h. The City Manager shall prepare and administer the budget in accordance to State law.*

VOTE: 11-0; Motion Passed.

MOTION: Made by R. Nichols, seconded by J. McConnell to approve:

- i. The City Manager shall keep the City Council fully advised as to the financial condition of the City and future needs of the City.*
- j. The City Manager shall oversee the purchasing of all merchandise, materials, supplies and services as budgeted and shall put in place such rules and regulations governing contracts, requisitions and transactions of business between City departments and vendors of goods and service in compliance with all State procurement laws.*
- k. The City Manager is authorized to make all purchases on behalf of the City according to the City's financial policy.*

l. The City Manager shall negotiate, sign, execute and monitor implementation of all contracts including franchise agreements entered into by the City in accordance with City Financial policy.

VOTE: 11-0; Motion Passed.

B. Regan noted the statement, "The City Manager assures risk management controls and assessments are in place to protect the City's liability and property concerns" is willfully inadequate as it does not detail what risk is (See Exhibit A).

MOTION: Made by B. Sparks, seconded by D. Deleranko to approve:

m. The City Manager shall prepare and present to City Council a Risk Management Plan.

VOTE: 11-0; Motion Passed.

VIII. ADJOURNMENT

President Nichols adjourned the meeting at 4:00 p.m.

Rich Nichols, Commission President

ATTEST:

C. Vanzant, Interim City Secretary

* Consider incorporating this in the City Manager responsibilities. (Note, as written, the budget must be approved by the Council, but the Risk Management plan need only be "accepted" or received by the Council.) *

The City Manager shall prepare and present to the City Council for approval an annual budget which addresses Operating and Maintenance requirements, Interest and Sinking Fund, Enterprise Fund, Capital, and reserve requirements, tax sources and tax rates, and, as appropriate, debt issuance, necessary to fund and balance the recommended budget. Such proposed Budget shall be consistent with and reflect and support programs and functions consistent with the Long-Term Plan. [The City manager shall also prepare and submit/update annually to the City Council a city Risk Management Plan (RMP), which reflects and assesses the risks the city faces (which may impact implementation of the strategies and achievement of the goals identified in the Long-Term Plan for the city)] [Strike parenthetical if Long-Term Plan proposal is not adopted]. The RMP shall identify risk management controls and programs, and the current funding for such plan shall be specifically addressed in the annual budget.]

Budget
Risk

Bill Regan

9.25.16

Exhibit A

BOERNE INITIATIVE, REFERENDUM, AND RECALL

Section 9.01 - General Authority.

A. Initiative. The registered voters of the City shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the qualified voters shall have the power to adopt or reject it at a City election, provided that such power shall not extend to the to those issues excluded from the initiative procedure by by state statute or common law, budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees or any ordinance relating to the issuance and sale of bonds.

B. Referendum. The registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. If the Council fails to repeal an ordinance so reconsidered, the registered voters shall have the power to approve or reject it at a City election, provided that such power shall not extend to those issues excluded from the referendum procedure by state statute or common law, the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

C. Recall. The registered voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.

Section 9.02 - Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any **ten (10)** registered voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Council member or Mayor to be recalled. Within **five (5) working days** after the affidavit of the petitioners' committee is filed with the City Secretary, he shall issue the appropriate petition blanks to the petitioners' committee.

Section 9.03 - Petitions.

A. Number of Signatures Initiative and Referendum. Initiative and referendum petitions shall be signed by registered voters of the City equal in number to at least twenty percent (20%) of the total number of qualified voters registered to vote at the last regular City election. No signatures to any petitions shall remain effective or be counted which do not comply with the provisions of the Election Code.

B. Number of Signatures Recall. Recall petitions shall be signed by registered voters of the City equal in number to at least thirty percent (30%) of the total number of qualified voters registered to vote at the last regular City election. No signatures to any petitions shall remain effective or be counted which do not comply with the provisions of the Election Code.

C. Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the signer's printed name, the address and voter registration number of the person signing and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. The contents of the recall petition shall be as specified in Section 9.05.B.

D. Filing Referendum Petitions. Referendum petitions must be filed within sixty (60) days after adoption by the Council of the ordinance sought to be reconsidered.

Section 9.04 - Procedure after Filing.

A. Certificate of City Secretary; Amendment. Within **twenty (20) working days** after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall within that **twenty (20) working days** period send a copy of the certificate to the petitioners' committee by registered mail.

A petition certified insufficient for lack of the required number of valid signatures **may be amended once** if the petitioners' committee files a notice of intention to amend it with the City Secretary **within two (2) working days** after receiving the copy of the certificate and files a supplementary petition **within ten (10) days** after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Subsection B of Section 9.03, and **within five (5) working days after it is filed**, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.

If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under Subsection B of this Section within the time required, the City **P6**

Secretary shall at the next regular Council meeting present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

B. Council Review. If a petition has been certified insufficient and the petitioner's committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) working days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

C. Court Review, New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 9.05 - Action on Petitions.

A. Action by Council on Initiative or Referendum. When an initiative or referendum petition has been fully determined sufficient, the Council shall at their next regular Council meeting consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

B. Action by Council on Petition for Recall. The recall petition must be addressed to the City Council of the City of Fair Oaks Ranch and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated. If there be more than one ground, such as for incompetency, misconduct or malfeasance in office, the petition shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters with which he is charged. The officer whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing. If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for holding such recall election.

C. Recall Restrictions. No recall petition shall be filed against any officer of the City of Boerne within three (3) months after his election nor within three (3) months after an election for such officer's recall.

D. Submission to Voters. The vote of the City on a proposed or referred ordinance shall be held on the soonest date allowed under the Texas Election Code. Copies of the proposed or referred ordinance shall be made available at the polls to registered voters.

E. Withdrawal of Petitions. An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth (15) day preceding the day scheduled for a vote of the City by filing with the City Secretary a request for withdrawal signed by at least five (5) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 9.06 - Results of Election.

A. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

C. Recall. If a majority of the votes cast at a recall election shall be "NO," that is, against the recall of the person named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at such election be "YES," that is, for the recall of the person named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.08, Subsection C of this Charter.

Section 9.07 - Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three years from the date said ordinance became effective and then only upon by an affirmative vote of two-thirds of the City Council.

MONT BELVIEU - INITIATIVE, REFERENDUM AND RECALL

Section 6.01 - General Authority.

- A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Council. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or common law.
- B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance. Such power shall not extend to the granting of franchises, budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or common law.
- C. Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any Council Member.

Section 6.02 - Commencement of Initiative, Referendum and Recall Petitions; Petitioners' Committee; Affidavit.

- A. Any **five (5) qualified voters** may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the individual to be recalled.
- B. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time.
- C. Petitions shall be returned to the Office of the City Secretary for filing **within sixty (60) days** after filing of the affidavit of petitioners committee and no signature on said petition shall have been affixed prior to the filing of the affidavit of petitioners committee.
- D. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed. The signatures on petitions shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF [petition circulator's county of residence]

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

Signature _____

Sworn and subscribed before me this _____ day of _____ / _____ / _____
20 _____ .

NOTARY PUBLIC, STATE OF TEXAS

My commission expires: _____ / _____ / _____

Section 6.03 - Initiative, Referendum and Recall Petitions; Certificate of City Secretary; Supplementation; Presentation to Council; Council Review.

- A. Certificate of City Secretary. **Within 30 working days** after the petition (the "Original Petition") is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall **within that 30 working day** period send a copy of the certificate to the petitioners' committee by certified mail return receipt requested or by hand delivery to a committee member.
- B. A petition certified insufficient for lack of the required number of valid signatures **may be supplemented once** if the petitioners' committee files a notice of intention to supplement with the City Secretary within **three working days** after receiving the copy of the Certificate of the City Secretary. The supplementary petition shall be filed within the time specified in Subsection 6.03.C. Such supplementary petition shall comply with the requirements of Subsections 6.02.B and D, and **within ten (10) working days**

after the supplementary petition is filed, the secretary shall complete a certificate as to the sufficiency of the petition as supplemented and send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition.

C. Upon the submission of the Original Petition to the City Secretary the 60 day time line for submission as provided for in Section 6.02.C shall be tolled. The petitioners committee shall submit the supplementary petition to the City Secretary within the remaining tolled 60 day deadline, said remaining time to be calculated from receipt of the certificate of insufficiency by the petitioner's committee or committee member as applicable. No signature on said supplementary petition shall have been affixed prior to the receipt by the petitioners committee of the certificate of insufficiency.

D. Presentation to Council. The City Secretary shall, at the next regular Council meeting in compliance with the Texas Open Meetings Act after completion of certification of the petition or supplementary petition, present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

Section 6.04 - Requirements specific to Petitions for Recall.

Before the question of a recall shall be submitted to the qualified voters of the City a petition, containing at least 30 percent of the number of qualified voters registered to vote at the last general City election, demanding such question to be so submitted shall first be filed with the Office of the City Secretary pursuant to this Article. The petition shall be addressed to the City Council of the City and shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the reason for the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) with which the individual's recall is predicated. If there be more than one reason, said petition shall distinctly and specifically state each reason upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the individual that warrant the recall as to give the individual sought to be removed notice of the matter(s) and thing(s) on which the recall is predicated.

Section 6.05 - Public Hearing to be Held on Recall Petition.

The individual whose removal is sought may, within **five (5) working days** after such recall petition has been presented to the City Council, request that a special meeting be held to permit him/her to present a response to the reasons for recall specified in the recall petition. In this event, the City Council shall order such special meeting to be held, no more than **thirty (30) and no less than fifteen (15) days before early voting**.

At any special meeting held under this Section the individual whose removal is sought shall have a thirty (30) minute period to state their response to the recall petition. There shall be no public participation in the special meeting and no other items of business shall be a part of the special meeting.

Section 6.06 - Calling of Recall Election.

If the individual whose removal is sought does not resign, then the City Council shall for the next available uniform election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

Section 6.07 - Ballots in Recall Election.

Ballots used at recall elections shall conform to the following requirements:

A. With respect to each individual whose removal is sought, the question shall be submitted: "Shall _____ be removed from the office of _____ by recall?"

B. Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:

"Yes"

"No"

Section 6.08 - Result of Recall Election.

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the individual named on the ballot, the individual shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the individual named on the ballot, the individual shall, regardless of any technical defects in the

recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided for in State law.

Section 6.09 - Recall Restrictions.

No petition shall be filed for the recall of an individual within 365 days of the date of the individual's election to City Council or within 180 days before the end of the individual's term on City Council.

Section 6.10 - Initiative; Requirements specific to Petition for Initiative; Procedure.

A. A petition for initiative must contain the number of valid signatures totaling at least 20 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance.

B. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on the soonest date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance.

C. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon the canvassing of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.11 - Referendum; Requirements specific to Petition for Referendum; Procedure; Effect Prior to Election.

A. A petition for referendum must contain the number of valid signatures totaling at least 20 percent of the total number of registered voters registered to vote at the last general City election and shall otherwise comply with the requirements for petitions in this Article.

B. Within 45 days after final sufficiency of the petition City Council shall either repeal the referred ordinance or order an election to submit the referred ordinance to the qualified voters of the City said election to be held on the first available uniform election date authorized by law.

C. If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results.

D. A petition for referendum on the same subject matter may only be submitted once every three (3) years.

Section 6.12 - Initiative and Referendum; Form of Ballots.

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

"For the Ordinance"

or

"Against the Ordinance"

Section 6.13 - Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three years from the date said ordinance became effective and then only upon by an affirmative vote of two-thirds of the City Council.

General Provisions

Liability Coverage

The City shall ensure liability coverage exists to insure officers and employees of the City in a minimum amount consistent with standard practice to provide protection for any claim, judgment or litigation arising out of the employee's, official's or officer's active or alleged error or misstatement of fact or omission or neglect or breach of duty, including misfeasance, malfeasance or nonfeasance, by the employee, official or officer in the discharge of their duties with the City, individually or collectively, or any matter claimed against them solely by reason of their being or having been employees, City officials or officers.

Notice of damage or injury required.

A. The City of Fair Oaks Ranch shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause or action under the law by reason of such death injury, shall file a notice in writing with the City Manager within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

B. The City of Fair Oaks Ranch shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the amount of damage sustained. The City of Fair Oaks Ranch shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

Construction of Charter.

The Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and, except where expressly prohibited by this Charter, each and every power under Article XI, Section 5 of the Constitution of Texas, which it would be competent for the people of the City of Fair Oaks Ranch to expressly grant to the City, shall be construed to be granted to the City by this Charter.

Service of Process Against the City.

All legal process against the City shall be served upon the City Manager.

Judicial Notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places provided that the City Secretary certifies the most current City Charter with any amendments.

Property Not Exempt From Special Assessments.

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments except where required by state law.

City Council May Require Bonds.

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his/her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City.

Regulation of Alcohol.

The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law, including but not limited to the regulation of the sale of liquor in residential sections or areas of the City.

Oaths.

All elected and appointed officers of the City shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

Disaster Clause.

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the City Council, or highest surviving City official, if no elected official remains, shall, within 24 hours of such disaster, request the highest surviving officers of the Bexar County Commissioners Court to appoint a number of residents of Fair Oaks Ranch equal to the number necessary to make a quorum to act during the emergency as the City Council. The newly appointed City Council shall call a City election within 15 days of their appointment, or as provided in the Texas Election Code, for election of the vacant offices, if for good reasons it is known a quorum of the present City Council will never again meet. If it is determined that a quorum of the present City Council will meet again, the appointed Council Members shall serve in their position until such time as the present Council Members may begin serving.