



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

January 3, 2017; 2:00 p.m.
City Hall Council Chambers
7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015

I. ROLL CALL

II. 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 December 12, 2016 Home Rule Charter Commission Meeting Minutes.

III. DISCUSSION ITEMS

A. Review and discuss the City Attorney’s power point presentation for the January 12, 2017 Town Hall Meeting.

B. Review and discuss the draft Q&A paper created by the Communications Sub-Committee

C. Review and discuss the protocol of the January 12, 2017 Town Hall Meeting.

IV. ADJOURNMENT

Reaffirm future Commission Meeting Dates:

January 9, 2017	Final Preparation for Town Hall Meeting (if necessary)	2:00 PM
January 12, 2017	Town Hall Meeting	6:30 PM
January 16, 2017	Incorporate Town Hall Comments (as determined necessary)	2:00 PM
January 23, 2017	Final Vote on Final Proposed Charter	1:00 PM

I, Christina Picioccio, 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 5:00 p.m., December 30, 2016 and remained so posted continuously for at least 72 hours before said meeting was convened.

MINUTES, DECEMBER 12, 2016; 4:00 PM
CITY OF FAIR OAKS RANCH HOME RULE CHARTER COMMISSION
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas

I. ROLL CALL

Attendees: B. Sparks, D. Deleranko, F. Trapasso, B. Regan, R. Nichols, J. Merritt, G. Maxton, D. Pearson, T. Jaster, and J. McConnell.

Absent: C. Fothergill

With a quorum present, President Nichols opened the meeting at 4:00 PM.

II. CITIZENS/GUEST FORUM PRESENTATIONS

S. Hartpence, citizen addressed the Commission and brought to their attention several areas of concern in the Charter as currently written including Section 2.02 - Extension of Boundaries – Annexation, Section 6.06 - Calling of Recall Election, Section 6.09 - Recall Restrictions as well as draft charter “roll out plan” to citizens for input prior to submitting to City Council. Commission discussed each area of concern.

III. CONSENT AGENDA

A. November 7, 2016 Home Rule Charter Commission Meeting Minutes were approved as amended by Commission Consensus.

B. November 21, 2016 Home Rule Charter Commission Meeting Minutes were approved as amended by Commission Consensus.

IV. CONSIDERATION/DISCUSSION ITEMS

Commission Member, B. Sparks provided comments and thoughts on the Home Rule Charter creation process – provided as Attachment A.

City Attorney Zech requested that the Commission review and approve changes made to Charter based on previous discussions.

1. Section 3.01 A – Number, Selection, and Term

“In year one the Mayor and Council Place One shall be elected to their respective terms, in year two Council Places Three, Four and Five shall be elected to their respective terms and ~~Each~~ in year three ~~two~~ Council ~~P~~laces Two and Six shall be elected for their respective terms except as set forth in the transitional provisions ~~hereinafter provide for in Section 8.05 of this Charter set forth.~~ hereinafter provide for in Section 8.05 of this Charter set forth.

Approved by Commission Consensus as follows: *“In year one, **which shall be the year 2021**, the Mayor and Council Place One shall be elected to their respective terms, in year two Council Places Three, Four and Five shall be elected to their respective terms and ~~Each~~ in year three ~~two~~ Council ~~P~~laces Two and Six shall be elected for their respective terms except as set forth in the transitional provisions ~~hereinafter provide for in Section 8.05 of this Charter set forth.~~ hereinafter provide(**d**) for in Section 8.05 of this Charter set forth.*

2. Section 3.09 D – Vacancies; Forfeiture of Office; Filling of Vacancies

Commission had noticed at the November 21, 2016 meeting that this section was not included in the Charter. After review the City Attorney confirmed it had been accidentally omitted and is being reinserted as follows:

Filling Vacancies. In the event of a vacancy in the City Council, if there are 365 days or more remaining on the term of the vacated City Council position, the City Council shall call a special election to fill such vacancy. If there are less than 365 days remaining in the term of the vacant City Council position, the City Council may, by majority vote of the remaining Councilmembers, at its discretion, leave the position vacant, appoint a new Mayor or Councilmember to fill such vacancy or call a special election to fill such vacancy. All vacancies shall be filled pursuant to state law.

Approved by Commission Consensus.

3. Section 6.04 – Requirements specific to Petitions for Recall
30% changed to 25%.

Approved by Commission Consensus.

4. Section 6.10 A – Initiative; Requirements specific to Petition for Initiative; Procedure.
20% changed to 15%.

Approved by Commission Consensus.

5. 6.11 A – Referendum; Requirements specific to Petition for Referendum; Procedure;
Effect Prior to Election.
20% changed to 15%.

Approved by Commission Consensus.

6. Section 8.05 – Staggered Elections.

City Attorney requested that the Commission provide the missing details of the following:

2017- Within (??) days of the adoption of this Charter the City Council shall appoint an individual to fill the vacant Place Six.

Discussion ensued as to the process of adopting the Charter. The following language was approved by Commission Consensus.

Within a reasonable period of time of the adoption of this Charter the City Council shall appoint an individual to fill the vacant Place Six.

7. Section 7.14 A – Planning and Zoning Commission
B. Regan recommended capitalizing Comprehensive Plan

Approved by Commission Consensus.

8. City Secretary Picioccio voiced concerns regarding the current Charter language that the City Secretary would be hired and fired by City Council, yet report administratively to City Manager. She requested that the Commission reconsider having the City Secretary be hired and fired by the City Manager like all other positions.

Discussion ensued.

Main Motion: Made by B. Regan, seconded by T. Jaster to have City Secretary report, be hired and fired by the City Manager.

Amended Motion: Made by T. Jaster, seconded by J. Merritt to strike Section 5.04 – City Secretary completely.

Amended Vote: 6-4, Motion Failed (D. Deleranko, J. McConnell, B. Sparks, and F. Trapasso dissenting).

Main Motion Vote: None taken.

A. Review, consideration and possible action on previously approved charter provision and transitional provisions.

J. McConnell submitted language for proposed changes to the following Charter sections:

1. Recommendation of addition of Section 3.04 E and changes to 5.01 C 14:
The Mayor is jointly responsible with the City Manager for the coordination of City communication with the public and the news media including outreach initiatives to the citizens and general public through various media venues.

Motion: Made by J. McConnell, seconded by J. Merritt to adopt 3.04 as written and modify Section 5.01 C.

Vote: 8-2, Motion Passed (B. Regan dissenting, J. Merritt abstaining).

2. Recommendation to add the following language in Section 5.01 C 17:

The City Manager may appoint, suspend or remove any City employee except as otherwise provided by this Charter ***or as otherwise designated by majority vote of the City Council.*** The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that employee's department, office or agency.

Motion: Made by J. McConnell, seconded by F. Trapasso approve amendment as written.

Vote: 3-7, Motion Failed (D. Deleranko, T. Jaster, G. Maxton, J. Merritt, R. Nichols, D. Pearson, and B. Regan dissenting).

3. Recommendation to add the following language in Section 5.01 C 18:

The City Manager shall direct and supervise the administration of all departments, officers, and agencies of the City except as otherwise provided by this Charter ***or as otherwise designated by majority vote of the City Council***, or by law.

Motion: Made by J. McConnell, seconded by F. Trapasso to adopt added language.

Vote: 2-8, Motion Failed (D. Deleranko, T. Jaster, G. Maxton, J. Merritt, R. Nichols, D. Pearson, B. Regan, and B. Sparks dissenting).

4. Recommendation to create a Public Utilities Commission with the addition of Section 7.16:

Section 7.16 – Public Utilities Commission.

Consistent with all applicable Federal and State laws with respect to water supplies and use, wastewater treatment and environmental protection, the City Council shall:

- 1. Establish a Public Utilities Commission to investigate and review the City's water supplies and wastewater capacity and such utility planning responsibilities as may be specified in this Charter and by ordinance;***
- 2. The Public Utilities Commission shall have the following planning responsibilities:***
 - a. Make recommendations to Council on utilities requirements and capacities in the City's comprehensive plan; and***
 - b. Make recommendations to City Council on water use restrictions, anticipated water supply requirements, updating and testing of existing water supplies, anticipated wastewater treatment capacity, condition of existing wastewater treatment capacity and any environmental impacts of the City Utilities; and***
 - c. Hold a minimum of two public hearings on any proposed developments requiring use of City's Utilities, and make recommendations to City Council on their approval.***

Motion: Made by J. McConnell, seconded by F. Trapasso to add language to the Charter - Section 7.16 establishing a Public Utilities Commission.

Vote: 4-6, Motion Failed (D. Deleranko, T. Jaster, G. Maxton, J. Merritt, D. Pearson, and B. Regan dissenting).

C. Review, consideration and possible action on Charter Preamble.

After discussion, the proposed Charter Preamble was approved as follows: "We, the citizens of the City of Fair Oaks Ranch, Texas, in order to establish a Home Rule municipal government, provide for the future growth and social progress of our city, insure justice and domestic tranquility as well as promote the general welfare by adopting more fully the benefits of local self-government, do hereby adopt this Home Rule Charter in accordance with the Constitution and Statutes of the State of Texas, **and do hereby declare the residents of the said City**, living within the legally established boundaries of said City, to be a political subdivision of the State of Texas incorporated forever under the name and style of the City of Fair Oaks Ranch with such powers, rights and duties as are herein provided".

Approved by Commission Consensus.

D. Discussion and possible action on future meeting dates.

Upcoming Town Hall Meeting date to be determined at the next meeting planned for December 19, 2016 at 2:00 PM. President Nichols discussed plans for creating subcommittees to facilitate the next phase of the Home Rule Charter Commission to include messaging and notices to citizens.

V. ADJOURNMENT

President Nichols adjourned the meeting at 6:15 PM.

Rich Nichols, Commission President

ATTEST:

Christina Picioccio, City Secretary

City of Fair Oaks Ranch Home Rule Charter Comments

As our duties on this commission come to a conclusion, I would like to take this opportunity to thank everyone for their dedication. I was also going to say hard work, but, in reality, I haven't found participation in this effort to be especially difficult. For that, I believe we have Charlie Zech to thank. His diligence, guidance, and especially tolerance has been the ingredient that has made this process work.

I probably will vote for this Charter both as a member of this commission and as a resident of Fair Oaks Ranch. That does not mean that I would have chosen every aspect included in this Charter. Nor does it mean that the Charter Includes all of the provisions I would have preferred. It is, as I suspect all documents formed by a committee are, a compromise.

Let us not forget that this Charter is the founding document for a city government which will have virtually every power allowed by state law and will not be significantly limited except as state law provides for limitations. If individually queried, I think most of us would say that we are in favor of small and limited governments. I see the government authorized by this Charter as neither particularly small or limited. However, this Charter is very similar to many other charters for Texas cities of population comparable to that of Fair Oaks Ranch, and, to the best of my knowledge, they seem to be working.

There are three items in this Charter which help to prevent the abuse of governmental power as directed toward the majority of citizens. These items are initiative, referendum, and recall. I believe these provisions provide the cornerstone for continued citizen oversight of government. They, however provide little or no protection for small groups or even individuals which become the object of governmental abuse of power. I also believe that the city's powers of unilateral annexation and eminent domain are the most likely vehicles for infringement on the rights of small groups or individuals. This is a difficult area since city governments probably need these powers to perform their duties to the citizens, but it is my opinion that state law does not restrict these powers adequately to protect individual rights, such as self-determination and property ownership.

Philosophically, I find forcing people to live under a government which they had no voice in forming to be abhorrent and undemocratic. I do recognize the need for cities to exercise some control over the development adjacent to their boundaries. Therefore, I have no significant objection to the annexation of undeveloped or unpopulated land. Unilaterally annexing significant populations is another matter

altogether. When significant populations are annexed against their will, I would suggest that the development has already occurred and that the annexation was to obtain their tax dollars. That, for me, is not sufficient to violate their democratic rights. Let's remember that the cities of Fair Oaks Ranch were originally formed to avoid unwanted annexation. The principle of self-determination seemed important to us then.

I am also not in favor of the city's right of eminent domain as authorized by state law. While I recognize the need for this authority to exist, I feel that state law does not sufficiently limit the time given to city governments to utilize the property that they have acquired against the will of the property owner. Likewise, I don't believe that state law provides for sufficient penalties in the unlikely chance that they have been proven to have abused the unwilling acquisition. The ten years allowed by state law for a city to use condemned land when all activity except whatever construction activity is planned for that land could have been accomplished prior to the condemnation seems excessive. For me, ten years is a long time. Actually, for me, ten years is probably a lifetime, literally. Also, the penalty at the end of that time, if the original owner is still among the living or if he or his descendants wish to take legal action, he is allowed to purchase his land back. This just doesn't seem right. I would prefer a much shorter time for utilization and a much more severe penalty for not meeting the utilization requirements for property acquired by eminent domain.

I recognize that I am a lone voice on these matters. I can accept that and still be in favor of this proposed city charter for all of the good things it offers and the governmental stability it provides. Also, I would like to thank the City Council of Fair Oaks Ranch for choosing me to serve on the Home Rule Charter Commission. Additionally, I would like to thank my fellow commissioners for their commitment to the City of Fair Oaks Ranch by serving on this commission.

Respectfully Submitted,

William A. Sparks
City of Fair Oaks Ranch
Home Rule Charter Commission
December 12, 2016