



CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING

Tuesday, November 16, 2021 at 6:00 PM
City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

AGENDA

OPEN MEETING

1. Roll Call - Declaration of a Quorum.
2. Pledge of Allegiance

CITIZENS and GUEST FORUM

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chambers. 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. Speakers shall limit their comments to five (5) minutes each.

3. Citizens to be heard.

PURPOSE OF SPECIAL CALLED MEETING

4. Conduct a workshop of a proposed Ordinance amending the City Council Meeting Rules of Procedure.

Christina Picioccio, City Secretary

ADJOURNMENT

Signature of Agenda Approval: s/ Tobin E. Maples

Tobin E Maples, City Manager

I, Christina Picioccio, 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.

As per Texas Government Code 551.045, said Notice was posted by **6:00 PM, November 13, 2021** 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 Texas Government 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 COUNCIL WORKSHOP ITEM

CITY OF FAIR OAKS RANCH, TEXAS

November 16, 2021

AGENDA TOPIC: Conduct a workshop of a proposed Ordinance amending the City Council Meeting Rules of Procedure

DATE: November 16, 2021

DEPARTMENT: City Secretary

PRESENTED BY: Christina Picioccio, City Secretary

INTRODUCTION/BACKGROUND

By way of background, in 2013, by resolution, City Council adopted Rules of Procedures for all city council meetings. Subsequent amending Resolutions were adopted in 2015, 2017 and 2021.

In May 2017, voters approved, by election, to adopt the city's Home Rule Charter. Section 3.06.E. of the Charter states, "*City Council shall, except as otherwise provided for in this Charter, create Rules of Procedure for all City Council workshops, regular and special meetings and public hearings by ordinance*".

In September 2018, prior to completing the conversion process from a resolution to an ordinance, a request was made of staff and city council members to review the procedures current at that time and provide the Assistant City Manager with any recommendations. The Assistant City Manager incorporated all council comments and presented for council discussion at the August 15, 2019 council meeting. Council discussed the proposed Rules of Procedures and requested that this topic be brought back as a workshop item at a future meeting.

On February 4, 2021 council voted to amend Part II Rule 4 changing the meeting time of the regular city council meeting held on the first Thursday of each month from 6:30 AM to 6:30 PM. No other changes were made at that time. At the August 5, 2021 city council meeting Council Member Elizondo requested that the City Council Rules and Procedures be brought for council to review and update.

The City Secretary's Office provided council the most recent ordinance passed in February 2021 as well as the proposed "marked-up" 2019 version to receive council recommendations.

Attached is a proposed ordinance that incorporates all the recommendations received from city council and staff from 2019 and present. Crossed-out items indicate removal of language while underlined items indicate additions. It is the intent of this agenda item to elicit council discussion and direction for changes. Staff will apply said changes and place the proposed Ordinance on a future council agenda for consideration and action.

This agenda item was originally brought to council for discussion and possible action at the October 7, 2021 council meeting. Due to the nature of the item and the voluminous discussion anticipated, the discussion was postponed and set as a stand-alone workshop.

Council met to discuss at a special meeting held on October 25th. This is the second meeting; additional meeting(s) to complete discussions are anticipated.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS

1. Complies with the requirement of the City Charter, Section 3.06.E in creating a Rules of Procedure for all City Council workshops, regular and special meetings and public hearings by Ordinance.
2. Provided City Council and staff the opportunity to review and recommend enhancements to the current City Council Meeting Rules of Procedures.
3. Provides transparency.

LONGTERM FINANCIAL & BUDGETARY IMPACT

N/A

LEGAL ANALYSIS

Legal reviewed and approved as to form.

RECOMMENDATION/PROPOSED MOTION

No motion required. Staff will make changes to the ordinance language as directed by council and place the proposed ordinance on a future city council meeting agenda for consideration and action.

CITY COUNCIL MEETING RULES OF PROCEDURE

Resolution 2013-17 (Nov 2013)

Amended Resolution 2015-05

Amended Resolution 2015-11

Amended Resolution 2017-01

Amended Resolution 2021-06 (Feb 4, 2021)

General Provisions

Rule 1. Scope of Rules. These rules shall govern the conduct of the Council and shall be interpreted to ensure fair and open deliberations and decision making. In general, these rules shall be interpreted to allow the majority to prevail but preserve the right of the minority to be heard.

Rule 2. Rulings; Matters Not Covered. The Presiding Officer, as defined by Rule 15, shall rule, initially, on all questions of procedure. The latest edition of *Robert's Rules of Order*, shall to the extent feasible, govern the proceedings of meetings. The City Secretary or authorized representative shall act as Parliamentarian for Council Meetings.

Rule 3. Interpretation. These rules are intended to supplement and shall be interpreted to conform with the statutes of the State of Texas and the ordinances of the City of Fair Oaks Ranch.

(Resolution 2021-XX, adopted X/X/2021)

Time and Place of Meetings

Rule 4. Regular Meetings.

The City Council shall meet in regular session on the first Thursday and third Thursday in each calendar month beginning at 6:30 PM in the Fair Oaks Ranch Council Chambers or other appropriately posted location. The City Council, by a majority vote, may reschedule or cancel any regular meeting in a manner consistent with Open Meetings or other established requirements. The City may broadcast the regular meetings online and such method will be posted with the regular meeting notice for the public.

(Resolution 2021-XX, adopted X/X/2021)

(Resolution 2021-06, adopted 2/4/2021)

(Resolution 2015-05, sec. 1, adopted 06/2015; Resolution 2017-01, sec.1, adopted 07/2017)

Rule 5. Special Meetings. A special meeting is any meeting, other than a regular meeting, where a quorum of council members is present to deliberate public business that the City Council has supervision or control over the topic being deliberated.

A. Special meetings shall be called at the request of the Mayor or City Manager or at the written request of four council members to the City Secretary's office. Said meetings will be held at the time and place as posted on the meeting agenda. The City may broadcast special meetings online and such method will be posted with the special meeting notice for the public.

B. Each member of the Council, the City Manager, the City Secretary, and the city attorney shall be notified of the special meeting.

(Resolution 2021-XX, adopted X/X/2021)

Rule 6. Executive Sessions. The City Council may meet in executive session in compliance with the Texas Open Meetings Act. The Council will invite any necessary individuals needed for

the executive session. A vote, if needed, on a matter discussed in an executive session will be made in an open meeting, and not in executive session.

{Resolution 2021-XX, adopted X/X/2021}

Rule 7. Absence of a Quorum. A regular or specially called meeting can be held in the absence of a quorum as long as no votes are taken. * ask CA

{Resolution 2021-XX, adopted X/X/2021}

City Council Agenda and Agenda Packet

Rule 8. Agenda. The Meeting notice ("Agenda"). The agenda includes the meeting notice. The agenda is approved by the Mayor.

- A. Any member of City Council, outside of a city council meeting, may place an item on an agenda by submitting a request in writing, to the City Secretary.
- B. At a meeting of City Council a member of City Council may place an item on an agenda by making a request to place the item on a future agenda. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.
- C. The City Manager may place any item on any City Council agenda.
- D. An item proposed by a council member may not be refused or postponed without the council member's consent.

{Resolution 2021-XX, adopted X/X/2021}

Rule 9. Agenda Packet. The agenda packet includes the meeting notice ("Agenda") and any supporting documentation for agenda items. The Mayor will approve the agenda. The City Manager shall supervise the preparation and approve the agenda packets for all meetings of the City Council.

Upon approval, agenda packets will be sent electronically, by the City Secretary's Office, to Council Members and the City Attorney and, can be picked up at City Hall during normal business hours.

Council members may provide supportive documents to any agenda items that they own to the City Secretary's office in accordance with the packet preparation schedule.

{Resolution 2021-XX, adopted X/X/2021}

Rule 10. Consent Agenda. The City Manager may separately designate items as consent items which shall be placed under Consent Agenda on the agenda and be acted upon by the Council under Rule 27. At the City Council meeting, an item may be pulled from the Consent Agenda and placed in the appropriate location of agenda at the request of any member of the city council.

{Resolution 2021-XX, adopted X/X/2021}

Conduct of Meetings

Rule 11. Roll Call. Before proceeding with the business of the Council, the City Secretary determines the presence of a quorum as required by law and these rules by calling the roll of Members present, and entering those named in the minutes.

Rule 14. Call to Order. The presiding officer shall call the meeting to order.

Rule 15. Presiding Officer. The Mayor, or in the Mayor's absence or inability to perform, the Mayor Pro Tem, shall be the presiding officer at all Council meetings. 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. If both the Mayor and Mayor Pro Tem are absent or unable to perform, the most senior Council member present shall preside. In the event two or more Members equally possess the greatest seniority, then the eldest person among them shall preside. For this purpose, seniority is measured by current, continuous service on the City Council. At each new city council's first meeting or as soon as practicable, the City Council shall appoint one ~~alderman~~ council member to serve as Mayor Pro Tem for a term of one year.

~~At each new city council's first meeting or as soon as practicable, the City Council shall appoint one council member to serve as Mayor Pro Tem for a term of one year.~~

Rule 16. Control of Discussion. The presiding officer shall moderate discussion of the Council on each agenda item to assure full participation in accordance with these rules. The presiding officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business. The presiding officer shall request all speakers to keep comments brief and relevant to the question before the Council. All persons present in the meeting room should refrain from abusive, rude or inappropriate conduct. ~~See Chapter 38 of the Texas Penal Code regarding the "hindering" of official proceedings.~~

Rule 17. ~~Consideration of Agenda Items~~ Order of Consideration of Agenda. (Comment: 2015 Language - Title changed – to Consideration of Agenda Items - No explanation given) Except as otherwise provided in these rules, each agenda item shall (2019 version changes shall to should – Council Member prefers shall or will instead of should) be considered in the numerical order as listed on the meeting notice. ~~Each agenda item shall be introduced by the presiding officer. After an item is introduced,~~ The standard procedure is as follows for consideration of agenda items::

1. Reading of the item by the presiding officer. A majority of the Council may require reading ordinances or resolutions by caption.
2. ~~The Mayor, City Administrator Manager or his/her designee or appropriate agenda item owner other person may present a statement or presentation on the item.~~
2. Alternate writing: The Mayor, City Manager or the appropriate agenda item owner may present a statement on the item.
3. ~~Discussion with the presenter. An Alderman council member may request and receive information, explanations or the opinions of the presenter or City Administrator Manager or city employee present. It is preferred that all questions of the presenter are conducted prior to any motions, if possible.~~

4. Ask for citizen comments and/or questions. Comments shall be no more than five minutes and may be terminated at the discretion of the presiding officer. Citizens may ask questions of the Mayor or any council member. Any member of the council may also ask questions of the citizen.

4.5. The presiding officer shall ask for a motion; if made, ask if there is a second. If seconded, proceed to the next step Rule 17.5. If there is no motion or second is made, item dies due to lack of motion.

5.6. Discussion held amongst Council members on item motion. The presiding officer will offer the opportunity for each council member to speak once on a motion before allowing a council member to speak a second time. The council member who made the motion will be afforded the opportunity to speak first in favor of their motion.

6.7. Ask for citizen comments and/or questions. Comments shall be no more than five minutes and may be terminated at the discretion of the Presiding Officer. Citizens may ask questions of the Mayor or any Alderman council member. Any member of the Council may also ask questions of the citizen.

7.8. Unless required by law or a Council member requests a roll call vote, informal voting (Rule # 24) shall be used.

(Resolution 2015-11, sec. 1, adopted 08/20/2015)

Rule 18. ~~Presiding Officer's Right to Enter into Discussion.~~ ~~The presiding officer as a member of the Council may enter into any discussion.~~

Rule 19. Limit on Remarks. Each Council member shall limit their relevant remarks to a reasonable length.

Time limits for council member comments may be set for specific agenda items, or any single meeting, by a majority vote of the council members present. If limits will be set for a specific agenda item, it must be voted on prior to the agenda item motion.

(Comment: Council members are expected to prepare their commentary in advance to the extent reasonably possible. Comments should be developed to accomplish their advocacy in a clear and concise manner, with the expectation that their total speaking time would be limited to a total of 10 minutes per question. Time not used may be reserved for follow-up on each question).

Rule 20. Presiding Officer's Right to Speak Last. The presiding officer has the right to speak last on any item.

Rule 21. Closing Motion Discussion. Discussion shall be closed on any item by the presiding officer with the concurrence of a majority of the Council present, or by an approved motion by a council member.

(Comment: How will this concurrence be expressed? Does the procedure allow for any member to call the question?)

Rule 22. Council Member Closing Announcements.

Standard language of the agendas calls for the following "REQUESTS AND ANNOUNCEMENTS":

"Announcements and reports by Mayor and Council Members",

"Announcements by the City Manager", and

"Requests by Mayor and Council Members that items be placed on a future City Council

agenda”.

Rule 23. Comments Out of Order. Council members will refrain from making comments during Citizen’s to be Heard and unless recognized by the presiding officer during an agenda item. The presiding officer may consider any comments made by council members during Citizen’s to be Heard and/or made without being recognized to be out of order.

Part V. Council Action

Rule 22. Motion Required. All actions requiring a vote shall be moved by an alderman council member. An alderman council member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion. A motion may be withdrawn or modified by its mover without asking permission. It is considered a motion, if a council member formally states, “I move to” or “I so move”. Any other comments made by a council member regarding a potential motion or consideration of an amendment will not be considered a motion until formally stated.

Rule 23. Recording Names of Moving Members. The City Secretary shall record the name of the alderman council member making each motion and seconding each motion.

Rule 24. Call for Vote. At the conclusion of the discussion or when a Council member calls the question and is seconded, the presiding officer shall call for a vote by voice, show of hands or roll call. The presiding officer shall announce the results of the vote.

~~Roll call votes are called in alphabetical order with each Member responding in the affirmative or negative (aye, yes, nay or no in order of council places.). If a Member does not wish to vote, they answer present or abstain. In case of a tie, the presiding officer votes. If the presiding officer cannot vote, the motion fails. (Comment: Explain the scenario(s), i.e., if the presiding officer has recused themselves)~~

~~Roll call votes are called in alphabetical order with are made by each Member responding in the affirmative or negative (aye, yes, nay or no). If a Member does not wish to vote, they answer abstain. In case of a tie, the presiding officer votes. If the presiding officer cannot vote, the motion fails.~~

Rule 25. Voting Required. Each alderman council member including the Mayor, ~~present~~ shall vote, unless abstaining, on every action taken by Council. When abstaining, the member shall state they are abstaining and, if they choose, provide reason as to the abstention. If a member has substantial interest in a business entity or in real property, the official shall file, with the City Secretary, before a vote or decision on any matter involving the business entity or the real property, an affidavit (See Appendix A) stating the nature and extent of the interest if:

1. In the case of substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or,
2. In the case of substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(Comment CA: Why not simply reference that they shall file when required to do so by state conflict of interest laws?)

Version provided to council in August 2019 did not have the above writing.

Any Alderman council member prohibited from voting by personal interest shall announce at the commencement of consideration of the matter and shall not enter into discussion on any such matter. Any Alderman council member refusing to vote—and not excused from voting—shall be recorded in the minutes as voting in the affirmative. (Comment CA: Is this per Robert's? I would think a pass or abstention would be recorded as a "no".

Comment: Current practice is to count as "abstain".

Version provided to council in August 2019 said:

Any council member prohibited from voting by personal interest shall announce at the commencement of consideration of the matter and shall not enter into discussion on any such matter. Any council member refusing to vote shall be recorded in the minutes as voting in the negative.

Rule 26. Separate Consideration. Except as otherwise required by these rules, each agenda item shall be voted upon separately with the vote recorded by the City Secretary. Motions and votes within an agenda item may be split, as desired by City Council. City Council, by approval of a motion, reserves the right to group agenda items for consideration.

Rule 27. Action on Consent Agenda. Except as herein provided, the "Consent Agenda" shall be considered as a group (without separate discussion on each item). When the Consent Agenda is introduced each Member of Council has the right to remove any item, in which case the item is handled under Rule ~~17~~17. After items are removed, the presiding officer shall ask for a motion on the remaining Consent Agenda items.

Rule 28. Consideration Out of Order. At the request of an alderman council member and with the consent of the Council any agenda item may be considered out of order.

Rule 29. Council Action to Withdraw or Defer. An alderman council member wishing to withdraw or defer an item may make a motion to that effect.

Part VI. Citizen Participation

Rule 30. Public Participation during Citizens to be Heard. Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation. The "Texas Open Meetings Act" requires the City to post a notice, in advance, listing every topic or subject to be considered by the Council. This law may (Comment: May or does?) prevent the Council from responding to and/or considering a subject raised by a member of the public during Citizens to be Heard or otherwise.

Speakers shall register in advance and limit their comments to five minutes each. Total time for citizen comment is limited to 60 minutes unless a majority vote of the Council extends the allotted time. ~~Comments shall be limited to topics not on the meeting agenda and will be governed by Rule 34.~~ Speakers should direct all remarks and questions to the Council. The presiding officer may refer a matter for investigation, response or other action.

Speakers shall sign in prior to the commencement of the meeting and limit their comments to five minutes each. Total time for Citizens to be Heard is limited to 60 minutes unless a majority vote of the Council extends the allotted time.

When called forth, the speaker wishing to comment shall step to the lectern, state their name, and address for the record, and then address the council.

Comment: In lieu of appearing in person citizens may be heard by submitting an e-mail to the city secretary 24 hours in advance of a posted council meeting stating a position or item for discussion by council. The e-mail should be short, to the point, and limited in scope on the subject matter.

Alternate:

When called forth, the speaking wishing to comment shall step to the lectern, state their name, city of residence, or county of residence if they do not reside in a city, and then address the council.

Citizens may submit comments in writing via e-mail to the City Secretary. The e-mail must include the individual's name and address and a request to read the e-mail during Citizen's to be Heard. E-mails must be limited to 750 words.

Comments should refrain from including abusive, rude or inappropriate language. Citizens failing to abide by this rule may be removed from the meeting.

Open meetings act prevents the removal of citizens due to rude, abusive or inappropriate language. According to The Open Meetings Act § 551.007. Public Testimony (e) A governmental body may not prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service. This subsection does not apply to public criticism that is otherwise prohibited by law.

(Comment: On the PDF we have "When called forth, the speaker wishing to comment shall step to the lectern, state their name and address for the record, and then address the Council." I would like to leave off the address requirement. I would also like to add the option for e-mails to be read keeping to the 5 min. rule.)

(Resolution 2015-11, sec. 1, adopted 08/20/2015)

Rule 31. Public Participation during an Agenda Item. Speakers may register in advance but are not required to do so. Speakers who have registered in advance ~~will speak~~ in the order of registration followed by those who have not registered. Refer to Rule 17.64 for complete procedure. or Rule 32?

Comment: "Complete procedure" not included.

(Resolution 2015-11, sec. 1, adopted 08/20/2015) ~~advance will speak~~

Rule 32. Manner of Addressing Council. A person desiring to address the Council shall sign in prior to the commencement of the meeting. The citizen shall identify their name, that they are a citizen of the city, and the topic they wish to discuss. ~~—When called forth, the person wishing to comment shall step to the lectern, state their name and address for the record, and then address the~~ **Council.**

(Comment: For public comments, including if letters are submitted to be read by the Secretary, the Presiding Officer should have the duty/right to intervene if the content is deemed to violate the decorum of the meeting. i.e., personal attacks, etc. Maybe add to Rule 34?)

Comment on above comment: Is this something we can do? Doesn't this violate TOMA The Open Meetings Act § 551.007. Public Testimony (e)

Rule 33. Total Time Limits. Total time for public comment on any subject under Council consideration can be limited to a fixed period by the presiding **officer.** (Comment: Suggest that target durations for topics be published on the agenda. This is a very common practice for corporate meetings and serves as an aid for presenters and council. Presenters should be encouraged to keep presentations at an executive summary

level. Read-ahead documents should be provided for content that could benefit from more background information.) A majority vote of the Council may extend the time limitations of this rule.

Rule 34. Remarks to be Germane. Public comments must be kept relevant to the subject before the Council. The presiding officer shall rule on the relevance of comments. ~~Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Council during the meeting.~~ (Comment CA: The new law does allow for criticism of elected officials)

(Comment: The last sentence was removed in the PDF. Do we not want the presiding officer to be able to remove people for slanderous comments?)

Rule 35. Matters Not On the Agenda. Discussion of matters not on the agenda is usually governed by Section 551.042 of the Texas Government Code, which provides:

A. If, at a meeting of a governmental body, a member of the public or of the governmental body inquiries about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

1. A statement of specific factual information given in response to the inquiry; or
2. recitation of existing policy in response to the inquiry.

B. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Part VII. Miscellaneous

Rule 36. Suspension or Adjustment of Rules. These rules or any part hereof may be suspended or adjusted for a specific purpose, or any single meeting, by a majority vote of the ~~aldermen~~ council members present.
(Comment: Something else to consider; enhance process/procedure for requesting consideration items. Require council to submit draft consideration or report request item to city secretary. Secretary will evaluation the submittal to determine that there is a clearly articulated case for the purpose and desired outcome. If the requested item appears to require more than a de minimis amount of staff work effort, the secretary will confer with the city manager or their designee to estimate the work effort required. If the work effort required is greater than X workdays, the secretary will inform the requester that a second sponsor will be required to place the item on the agenda. In such a case the presiding officer will poll the council for a sponsor at the next regular meeting.)