

VIA TELEPHONE CONFERENCE



CITY OF FAIR OAKS RANCH AGENDA – CITY COUNCIL EMERGENCY MEETING

March 27, 2020 2:30 PM
Via Telephone Conference
7286 Dietz Elkhorn, Fair Oaks Ranch

THERE EXISTS A PUBLIC HEALTH EMERGENCY RELATED TO THE COVID-19 VIRUS THAT NECESSITATES A MEETING OF THE CITY COUNCIL TO TAKE ACTION ON THE PUBLIC HEALTH EMERGENCY FOR WHICH NOTICE IS HEREBY POSTED IN ACCORDANCE WITH GOVERNMENT CODE CHAPTER 551.045 FOR AT LEAST ONE HOUR BEFORE THE MEETING IS CONVENED AND PURSUANT TO GOVERNMENT CODE CHAPTER 551.125, MEETING VIA TELEPHONE CONFERENCE, AS MODIFIED BY EXECUTIVE ORDER OF THE GOVERNOR

You can dial in using your phone:

United States (Local #): 210-714-4201

(Toll-Free #): 1-800-717-4201

Conference ID: 2443302 #

To address the Council, please select *5 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately.

I. OPEN MEETING

A. Roll Call – Declaration of a Quorum.

II. CITIZENS and GUEST FORUM / PRESENTATIONS

To address the Council, please select *5 on your phone; this will place you in a queue for speaking. At the appropriate time the City Secretary will call upon each individual separately. 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. CONSIDERATION/DISCUSSION ITEMS

A. Consideration and possible action approving a reading of an emergency Ordinance postponing a Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets, from May 2, 2020 to November 3, 2020.

Christina Picioccio, City Secretary

Pgs. 3-7

B. Consideration and possible action approving a Resolution postponing a General Election for the election of Council Member Places 2 and 6 from May 2, 2020 to November 3, 2020.

Christina Picioccio, City Secretary

Pgs. 9-11

IV. ADJOURNMENT

Signature of Agenda Approval: _____



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 1:30 PM, March 27, 2020 and remained so posted continuously for at least 1 hour 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 CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
March 27, 2020

AGENDA TOPIC: Consideration and possible action approving an Ordinance postponing a Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets, from May 2, 2020 to November 3, 2020.

DATE: March 27, 2020

DEPARTMENT: City Secretary

PRESENTED BY: Christina Picioccio, City Secretary

INTRODUCTION/BACKGROUND:

In accordance with the general laws, the City Charter and pursuant to Ordinance 2020-02 a special election to submit a proposition on the reauthorization of the local sales and use tax at the rate of one fourth (1/4) of one percent to continue providing revenue for the maintenance and repair of municipal streets was ordered on January 16, 2020 to be held on May 2, 2020. The tax expires on the fourth anniversary of the date of this election unless the imposition of the tax is reauthorized, which is September 30, 2020.

Pursuant to Section 418.0016 of the Texas Government Code, on March 18, 2020, Governor Abbot signed a proclamation suspending certain provisions of the Texas Election Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their elections no later than November 3, 2020.

On March 24, 2020 the City passed an ordinance extending a declaration of local disaster; establishing rules and regulations for the duration of the disaster; restricting certain activities and establishing penalties for violations.

On March 26, 2020 the city received notification from the Texas Comptroller that due to increased precautions for COVID-19, that should the election date be changed to November 3rd that the city may ask the Comptroller to create a new expiration date for the street maintenance tax (December 31, 2020). Attachment A.

Pursuant to Texas Election Code 42.002 and 43.007 E, if the city elects to change the election date to the November uniform election (November 3rd), "the city must use county election precincts and county polling places; the entity must have a presence in every countywide location in the county, not just the locations within the territory of the political subdivision". This means that the city must contract with each county in which we reside.

Due to the uncertainty of its duration, to hold an election in May could at the very least pose a conflict for voters who wish to fulfill their right to vote yet to do so would be at risk of criminal penalty and more importantly possibly endanger lives. Staff recommends postponing the election until November 3, 2020.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Provide for the safety and welfare of our citizens while protecting their right to vote.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

Increased costs are associated with moving our election to November. The City must contract with all three counties based on Texas Election Code 42.002 and 43.007 E. The election budget is \$10,000.00. Election costs by county are unknown at this time.

LEGAL ANALYSIS:

Approved as to form by legal.

RECOMMENDATION/PROPOSED MOTION:

I move to postpone the Special Election reauthorizing the levying of local sales and use tax for the maintenance and repair of municipal streets, from May 2, 2020 to November 3, 2020.

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, ORDERING THE SPECIAL ELECTION TO SUBMIT A PROPOSITION ON THE REAUTHORIZATION OF THE LOCAL SALES AND USE TAX IN THE CITY OF FAIR OAKS RANCH TEXAS AT THE RATE OF ONE FOURTH (1/4) OF ONE PERCENT TO CONTINUE PROVIDING REVENUE FOR THE MAINTENANCE AND REPAIR OF MUNICIPAL STREETS, TO BE POSTPONED FROM MAY 2, 2020 TO NOVEMBER 3, 2020; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in accordance with the general laws and the Charter of the City of Fair Oaks Ranch, Texas, and pursuant to Ordinance No. 2020-02, a special election was ordered to be held on May 2, 2020, to submit a proposition on the reauthorization of the local sales and use tax at the rate of one fourth (1/4) of one percent to continue providing revenue for the maintenance and repair of municipal streets; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, on March 18, 2020, the Governor of the State of Texas signed a proclamation suspending certain provisions of the Texas Election Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their elections to the November 3, 2020, uniform election date; and

WHEREAS, the City Council of the City of Fair Oaks Ranch, Texas, through this order is exercising that authority.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

SECTION 1. That the City Councils' election previously ordered for May 2, 2020, for the City of Fair Oaks Ranch, Texas, for the purpose of submitting a proposition on the reauthorization of the local sales and use tax at the rate of one fourth (1/4) of one percent to continue providing revenue for the maintenance and repair of municipal streets is hereby postponed to November 3, 2020.

SECTION 2. Hereby confirms that all Applications for Ballot by Mail ("ABBM") for voters that are voting by mail due to being over the age of 65 or due to disability will still be valid for the postponed election, and that ABBMs for voters who submitted ABBMs based on expected absence from the county would not be valid for the postponed election.

SECTION 3. Hereby confirms the major relevant dates for the November election shall include October 5, 2020 as the voter registration deadline; October 23, 2020 as the deadline to submit an ABBM; and the dates for early voting shall be October 19, 2020 – October 30, 2020.

SECTION 4. That the City Manager is authorized to negotiate and execute an election contract with Counties: Bexar, Comal and Kendall for the purposes of conducting and/or leasing equipment for the postponed election to November 3, 2020.

SECTION 5. That the City Council of the City of Fair Oaks Ranch shall make any necessary revisions to the City's current order of election by August 17, 2020, which may include:

1. The change to the date of the election;
2. Any change in location of the main early voting location;
3. Any changes to early voting dates and hours, including weekend early voting;
4. Any changes to the identity of the early voting clerk and their contact information; or
5. Any changes to branch early voting locations.

SECTION 6. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 7. Pursuant to Article III; Section F - Legislation by Ordinance. If the City Council, by a vote of not less than two-thirds of the members present at the March 27, 2020 City Council meeting at which this ordinance is introduced, determines that an emergency exists related to public health or safety that requires immediate action, such ordinance may be voted upon and rejected or adopted at the meeting.

SECTION 8. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 9. This Ordinance shall be in force and effect from and after its final passage.

PASSED, ADOPTED, and APPROVED the 27th day of March, 2020 on one reading as an emergency measure pursuant to City Charter Section 3.06 F. 4.

	FOR	AGAINST	ABSTAIN
Mayor Garry Manitzas			
Mayor Pro Tem Elizondo			
Council Member Hartpence			
Council Member Havard			
Council Member Koerner			
Council Member Maxton			
Council Member Patel			

Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney



TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

March 26, 2020

Ms. Carole Vanzant
Assistant City Secretary
City of Fair Oaks Ranch
7286 Dietz Elkhorn Rd
Fair Oaks Ranch, TX 78015-4707

Dear Ms. Vanzant:

A review of our records shows that the City of Fair Oaks Ranch's sales tax for Street Maintenance will expire on September 30, 2020, unless the city holds a reauthorization election as prescribed in Section 327.007, Tax Code. Due to increased precautions for COVID-19, most May elections have been canceled and postponed to November. You may ask the Comptroller to create a new expiration date for the street maintenance tax if your special election is moved from May until the uniform election in November.

If you wish to request a new expiration date, you must send a copy of the resolution postponing the election to November to Taxalloc.RevAcct@cpa.texas.gov. Once received, we will notify you in writing that the new expiration date of the street maintenance tax is December 31, 2020. You will also be required to submit the November election results to the Tax Allocation section no later than November 20, 2020.

If you have any questions or need more information, I may be reached at 800-531-5441, extension 3-9634, or direct in Austin at 512-463-9634. You may also email me at Aubrey.Mashburn@cpa.texas.gov

Sincerely,

A handwritten signature in cursive script that reads "Aubrey Mashburn".

Aubrey Mashburn
Tax Allocation Section
Revenue Accounting Division



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

March 27, 2020

AGENDA TOPIC: Consideration and possible action approving a Resolution postponing a General Election for the election of Council Member Places 2 and 6 from May 2, 2020 to November 3, 2020.

DATE: March 27, 2020

DEPARTMENT: City Secretary

PRESENTED BY: Christina Picioccio, City Secretary

INTRODUCTION/BACKGROUND:

In accordance with the general laws, the City Charter and pursuant to Resolution 2020-02 a general election was ordered to be held on May 2, 2020, for the election of certain city officers.

Pursuant to Section 418.0016 of the Texas Government Code, on March 18, 2020, Governor Abbott signed a proclamation suspending certain provisions of the Texas Election Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their elections no later than November 3, 2020.

On March 24, 2020 the City passed an ordinance extending a declaration of local disaster; establishing rules and regulations for the duration of the disaster; restricting certain activities and establishing penalties for violations.

Pursuant to Texas Election Code 42.002 and 43.007 E, if the city elects to change the election date to the November uniform election (November 3rd), "the city must use county election precincts and county polling places; the entity must have a presence in every countywide location in the county, not just the locations within the territory of the political subdivision". This means that the city must contract with each county in which we reside.

Due to the uncertainty of its duration, to hold an election in May could at the very least pose a conflict for voters who wish to fulfill their right to vote yet to do so would be at risk of criminal penalty and more importantly possibly endanger lives. Staff recommends postponing the election until November 3, 2020.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Provide for the safety and welfare of our citizens while protecting their right to vote.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

Increased costs are associated with moving our election to November. The City must contract with all three counties based on Texas Election Code 42.002 and 43.007 E. The election budget is \$10,000.00. Election costs by county are unknown at this time.

LEGAL ANALYSIS:

Approved as to form by legal.

RECOMMENDATION/PROPOSED MOTION:

I move to postpone the General Election of Council Member Places 2 and 6 until November 3, 2020.

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS ORDERING THE GENERAL ELECTION OF CERTAIN CITY OFFICERS FOR THE CITY OF FAIR OAKS RANCH TO BE POSTPONED FROM MAY 2, 2020 TO NOVEMBER 3, 2020; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in accordance with the general laws and the Charter of the City of Fair Oaks Ranch, Texas and pursuant to Resolution 2020-02, a general election was ordered to be held on May 2, 2020, for the election of certain city officers; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, on March 18, 2020, the Governor of the State of Texas signed a proclamation suspending certain provisions of the Texas Election Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their elections to the November 3, 2020 uniform election date; and

WHEREAS, the City Council of the City of Fair Oaks Ranch, Texas, through this order is exercising that authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

SECTION 1. That the City Councils' election previously ordered for May 2, 2020 for the City of Fair Oaks Ranch, Texas, for the purpose of the election of certain city officers is hereby postponed to November 3, 2020.

SECTION 2. Hereby confirms that the candidate filings for the election will remain valid for the election held on the November date and that the filing period will not be re-opened for the November election date.

SECTION 3. Hereby confirms that all Applications for Ballot by Mail ("ABBM") for voters that are voting by mail due to being over the age of 65 or due to disability will still be valid for the postponed election, and that ABBMs for voters who submitted ABBMs based on expected absence from the county would not be valid for the postponed election.

SECTION 4. Hereby confirms the major relevant dates for the November election shall include October 5, 2020 as the voter registration deadline; October 23, 2020 as the deadline to submit an ABBM; and the dates for early voting shall be October 19, 2020 – October 30, 2020.

SECTION 5. That the City Manager is authorized to negotiate and execute an election contract with Bexar County for the purposes of conducting and/or leasing equipment for the postponed election on November 3, 2020

SECTION 6. That the City Council of the City of Fair Oaks Ranch shall make any necessary revisions to the City's current order of election by August 17, 2020, which may include:

1. The change to the date of the election;
2. Any change in location of the main early voting location;
3. Any changes to early voting dates and hours, including weekend early voting;
4. Any changes to the identity of the early voting clerk and their contact information; or
5. Any changes to branch early voting locations.

SECTION 7. That the City of Fair Oaks Ranch hereby agrees to take such other official action as may be reasonably necessary to carry out the objectives of this Resolution.

SECTION 8. This Resolution shall be in force and effect from and after its final passage.

PASSED, ADOPTED, and APPROVED the 27th day of March.

	FOR	AGAINST	ABSTAIN
Mayor Garry Manitzas			
Mayor Pro Tem Elizondo			
Council Member Hartpence			
Council Member Havard			
Council Member Koerner			
Council Member Maxton			
Council Member Patel			

Garry Manitzas, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney