

**From the Mayor's Desk**  
**February 2020**

**City Receives GFOA Excellence in Financial Reporting Award**

For the second year in a row, our city received the prestigious Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting for its comprehensive annual financial report (CAFR). The news release from GFOA cites "The CAFR has been judged by an impartial panel to meet the high standards of the program, which includes demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR." We congratulate Finance Director Sarah Buckelew and her finance staff for this outstanding achievement.

**Planning and Zoning Commission (P&Z)**

The P&Z Regular meeting scheduled for January 9<sup>th</sup> was cancelled because there were no plats to be reviewed or any additional business to handle. Council approved the preliminary plat establishing Front Gate Unit 5 on January 2<sup>nd</sup> which had previously been approved by P&Z. At the same meeting, Council approved the Tree Preservation Plan for Front Gate Unit 5 which had been previously reviewed and recommended for approval by P&Z.

**Zoning Board of Adjustment**

ZBOA has not had a need to meet since the last report.

**Water Rights Project**

The most significant issue facing our city at the moment continues to be the dispute over the ownership rights to water and easements around our city wells.

Since I last communicated with you about this topic, the City filed a Petition and Application for Temporary Restraining Order and Injunction in the 451<sup>st</sup> Judicial District court in Kendall County on December 23, 2019 against the Caldarolas.

The District Judge issued a Temporary Restraining Order on December 23<sup>rd</sup>. The Order stated:

" It is therefore ORDERED that Defendants and their agents, servants, employees, attorneys, and other persons in active concert or participation with him, are restrained and enjoined from interfering or obstructing, in any way, Plaintiff's use of the Sanitary Control Easement and Maintenance Easement to access the K-3 Well or the Plaintiff's use of the K-3 well site or water removed therefrom.

It is further ORDERED that Defendants shall take all actions necessary to prevent livestock or dogs from wandering into the Sanitary Control Easement and Maintenance Easement.

It is further ORDERED that the hearing on Plaintiff's Application for Temporary Injunction is set for January 6, 2020, at 10:00 a.m. in the 451<sup>st</sup> Judicial District Court of Kendall County, Texas. The purpose of this hearing shall be to determine whether this temporary restraining order should be made a temporary injunction pending a full trial on the merits."

At the January 6<sup>th</sup> hearing, both sides agreed to ask the Judge to extend the Temporary Restraining Order to February 20<sup>th</sup> to give the parties additional time to attempt to negotiate a mutually agreeable settlement of the issues. I anticipate that City Council will hear possible options from our attorneys in the near future. I will report more details to you as they become available.

We have continued down the path of resolving these issues outside the court room also. We have received additional completed Right of Entry documents to support our survey work.

If the property owner does not execute these documents, the City will be forced to file an injunction to require the property owners to allow the consultants on the affected lots. We will take this action if necessary. Our legal counsel has advised that right of entry is a common law right given to the condemning authority as a part of the condemnation process.

We have received completed legal documentation from a number of Sanitary Control Easement property owners and a few of the property owners who have wells on their lots. I will remind you that for property owners who do not wish to voluntarily ratify and convey easements, the City will take steps to condemn the easements and the groundwater. Condemnation is a well-defined legal process for acquiring ownership of personal property for a public use.

The Special Counsel, acting on authority granted by the City Council, has engaged Pape-Dawson to survey all the easements and well sites. Special Counsel has also engaged Glen Co., Inc. to appraise the easements and groundwater as part of the condemnation process. The City plans to survey all of the well sites and easements to ensure that we have accurate legal descriptions of these properties filed of record. Documentation with the new metes and bounds description will be filed in the deed records of the applicable county to replace any older descriptions.

We began survey work the week of January 13<sup>th</sup> and anticipate it will take four to six weeks to complete. We are making every attempt to notify the impacted residents when the consultants will be on site to do their work.

I will remind you that we have a video tape of the Town Hall meeting at Cibolo Creek Community Church on November 19<sup>th</sup>. You can access the meeting on our website or our Facebook page if you want to see the comments made. On our website you can click on the banner heading that shows the water drop. In addition to the video,

you can access the Q & A document we have posted to give you an update on this topic.

“Those of you directly affected by the water issue, that is those that own property with well sites or sanitary control easements, have probably received a second letter from Joe Davis of the Branscomb Firm regarding the requested Right of Entry agreements.

I’ve heard that many of you were upset by the second letter since you may have already signed and felt it was disrespectful to receive a second letter in which potential litigation was discussed. I understand your feeling; however, please understand that the letters are not intended to be so personal. The letters are a necessary step in the legal process. In an effort to make sure no one was missed, our special counsel felt it necessary to send the second letter to everyone. The list of those that signed and had not signed changes almost daily. Rather than missing a necessary party, the letter was sent to all. Mr. Davis was polite in the letter thanking you if you had already signed. He hoped that would alleviate hard feelings.

At this point, we have gathered email addresses and other ways to communicate with the affected group. While I can’t promise there won’t be a need for another letter, it is the goal of the City and our special counsel to work directly with each owner in an individual manner as we move forward.”

Tobin Maples asks anyone needing to discuss specific issues with him to please call him at City Hall at 210-698-0900 or email him at [tmaples@fairoaksranchtx.org](mailto:tmaples@fairoaksranchtx.org). Additionally, our Special Legal Counsel is available to answer questions (Rhonda Jolley at 210-598-5406 or Joe Davis at 210-598-5414).

### **Professional Services Agreement for Storm Water Utility Consultant Services**

At the January 16<sup>th</sup> regular council meeting the council took action to approve engaging Kimley-Horn for engineering consulting services to establish a Storm Water Utility District to improve, operate, and maintain our municipal drainage systems. Many of you will recall that one of our foundational studies was a Master Drainage Plan. We identified 46 areas in the city that need some form of storm water drainage improvements. The estimated price tag on these improvements including engineering, land acquisition, and construction is around \$10.4 million. The Storm Water Utility District would provide a funding mechanism for doing these improvements and for ongoing maintenance of our drainage system. Our Public Works staff worked with a committee of City Council members to develop a Request for Qualifications (RFQ) that detailed goals and objectives. Kimley-Horn and Associates, Inc. was selected by the committee to engage a scope and fee for the Storm Water Utility.

### **Professional Services Agreement for City Planning Consultant Services**

At the January 16<sup>th</sup> regular council meeting the council also took action to approve engaging Gunda Corporation for City Planning Consultant services. Effective

administration of the Comprehensive Plan and the Unified Development Code are key elements of managing growth and physical development of the community. To address this need, City Council planned funding in the FY 19-20 budget for City Planning Consultant Services. The consultant will report directly to the City Manager and will develop and oversee the City's development review process. This includes conducting predevelopment meetings, platting, zoning, site plans, sign permit applications, administration of the Comprehensive Plan, and preparation and presentation of communication reports for the Zoning Board of Adjustment, Planning and Zoning Commission, and City Council. Many of you are aware that most cities have Planning Departments. This Agreement is a way for our city to provide for this service need without having to engage a full time employee.

### **Capital Improvement Advisory Committee (CIAC) Recommends New Impact Fees**

To partially pay for the extension of its Water and Waste Water systems attributable to new development, our city has opted to charge impact fees as allowed under Texas Local Government Code Title 12.Subtitle C. Chapter 395 (Code). Our CIAC is composed of eight members of the community with four being members of the development, real estate, or building industry as required by the Code. Committee members are John Merritt (Chairman), Fran Driskell, Dana Green, Paul Lampe, Harold Manning, Monte McCormick, Paul Mebane and John Weir.

On September 25<sup>th</sup> the committee met for its regularly scheduled semi-annual meeting. Ron Emmons, City Public Works Director, and Jessica Vassar, P.E., representing the engineering firm of Freese & Nichols reviewed the newly adopted Land Use Assumptions and Capital Improvement Plans.

CIAC found that the City's recently adopted Land Use Assumptions and Capital Improvement Plan are based on sound assumptions and engineering practices and recommended no changes to that plan. CIAC also found that Freese & Nichols used sound assumptions and engineering practices and complied with the requirements under the Code in their calculation of the Maximum Allowable Impact Fees.

CIAC recommended to Council that the Council adopt the following maximum fees:

- Water Impact Fee increases from the \$5,400 per connection to \$8,670
- Wastewater Impact Fee increases from the current \$1,550 per connection to \$6,069

These are significant recommendations because they provide for "Growth to pay for growth." Without impact fees, most of the burden for new construction would fall on existing utility customers.

Council had previously passed a Resolution establishing February 20<sup>th</sup> as the date for a public hearing to consider possible adoption of Water and Wastewater Impact Fees.

### **Public Works Department Quarterly Report**

Public Works Superintendent Julio Colunga presented a very thorough and interesting update on his department's activities at the January 2<sup>nd</sup> council meeting.

Topics covered included:

- changes to building codes in response to legislative changes,
- ongoing construction projects, addressing illegal signage, and
- issues related to builder violations of city requirements for ongoing construction
- addressing illegal watering and
- progress on the city's Cross-Connection Control and Backflow Prevention Program.

The presentation also covered

- ongoing work on TCEQ MS4 Authorization Renewal (stormwater management),
- oak wilt map update with Texas A&M Forest Service, and a
- report on the city's energy consumption and reduction goals.

Some special projects that Julio commented on included our crack seal and patch repairs (highlighted new equipment being used), special road and drainage maintenance, and a significant number of water and wastewater utility upgrade projects. I was thoroughly impressed with the way this group is looking forward and using technology to improve how we do our work. A most impressive presentation! Good work!

### **Draft Request for Proposal (RFP) for a Compensation & Benefit Study**

The Strategic Action Plan adopted by council last year provides the opportunity to align our current compensation and benefit structures with the current market. It has been almost four years since the City did a compensation study. Council provided insight on the draft RFP and instructed staff to move forward with developing the RFP.

### **Development of Boerne Ranch Estates (Formerly Pfeiffer Tract/The Reserve)**

The developer has continued discussions with the City regarding this property. There is no significant outcome to report at this time. I will keep this item as a recurring topic in the monthly newsletter because I know it is important to everyone.

### **Feral Hog Safety Tips**

Last month I reported that we had begun seeing signs of feral hog damage on the east side of Ralph Fair Road. Through our Wildlife Education Committee, we are investigating doing a limited time trapping operation again. I have approached FORHA and the Country Club to see if we can do a joint operation since all three entities have common concerns. The idea of a joint trapping operation received

generally favorable comments. All three entities will consider their willingness to do a joint trapping operation, hopefully in the next month.

For safety, I am repeating the tips we published last month about feral hogs. They are very strong and can run relatively fast. Females are very protective of their young and can easily be provoked. Males can be territorial and may see you as an intruder. They will generally try to avoid contact with humans and will normally run away if they have a route they can take to do that. “Bubba” Ortiz from Ortiz Game Management LLC offers these tips if you encounter a feral hog:

- Stay calm and move slowly away from the animal. Do not approach it or attempt to feed the hog. Back away from the animal and do not turn your back on it.
- **Always make sure you have a way out as well. Do not put yourself in a position where escape is impossible or difficult.**
- Keep a safe distance and do not approach or provoke the hog, i.e. by using a flash while taking pictures of it. The longer you are in close proximity to feral hogs, the more anxious, nervous or aggressive they may get. Don’t risk being around them.
- If you see adults with young piglets, leave them alone!

### **Brush/Bulk Pick-up 2020**

The bi-annual brush/bulk pick-up for the City of Fair Oaks Ranch is scheduled to begin February 10, 2020. Be on the lookout for a flyer from Republic Services that will be mailed to your home with important details regarding dates, acceptable materials and size limitation. The flyer and important information will also be posted on the city website at [www.fairoaksranchtx.org](http://www.fairoaksranchtx.org).

### **Upcoming City Election**

City Council places 2 and 6 are up for election this year. Candidate sign up to run for these places began on January 15<sup>th</sup> and continues through Friday, February 14<sup>th</sup>. April 20 – April 28, 2020 is the early voting for these council places. Election Day will be Saturday, May 2, 2020. In the same election cycle, there will be a special election to reauthorize levying local sales and use tax for the maintenance and repair of municipal streets.

Applications for council positions are available at the front desk of City Hall and on the city website at <https://fairoaksranchtx.org/134/City-Elections>. Eligibility requirements and other information are available on the website also.

### **Resident Volunteers/City Staffers at Work**

- Our city Facebook page is continuing to attract readers. For those of you who are Facebook fans you can find us at City of Fair Oaks Ranch, TX. Our page is used for sharing information about the city, but it is not a public forum. The page is monitored and objectionable or off topic material will be removed.

We currently have 1,785 followers. We have had 1,572 likes recently and reached as many as 1,825 members during the past month.

- We have some new faces at the City. Clayton Hoelscher joined our Finance Department as Procurement Manager and Amanda Valdez joined us as Deputy City Secretary. Both of these professionals have substantial experience in their fields and we are delighted to welcome them to the City family.
- We also recognized several employees for their service achievements. Police Officer Richard Davila celebrated 15 years with the city. Christina Picioccio, our City Secretary celebrated 10 years of service. Sandra Gorski, Public Works Administrative Assistant, celebrated 5 years. Congratulations to all of these employees.

Garry Manitzas  
Mayor – Fair Oaks Ranch