

## **Mayor's Response to SFOR Survey**

A number of you probably received a “survey” from the Save Fair Oaks Ranch (SFOR) organization in your email recently. This document is not a legitimate survey in that it has obvious bias built into the questions. The document relies on misstatements of fact, omissions of fact, and innuendo to shape a negative opinion in the reader’s mind and drive them to negative conclusions about established policy matters of the city.

It is important for our residents to have a little background information on development of the Master Water, Wastewater, and Reuse Plan which includes the elevated storage tank (EST). Councilman Hartpence had originally supported the Master Plan and voted to approve it. Further, Councilman Hartpence voted to approve the Professional Service Agreement authorizing engineering consulting services for the design of the (EST). Subsequently, he changed his mind, claiming that he had been misled by city staff into believing that Texas Commission on Environmental Quality (TCEQ) had mandated an elevated storage tower. This, of course, is not true because TCEQ does not do consulting engineering work. The council acted on recommendations from Freese and Nichols, Inc. (FNI), our licensed professional engineers, who had been engaged to develop the city’s master plan. FNI’s recommendations for the EST were the same as those of two other engineering firms who had been engaged over the past twelve years to assist our Capital Improvement Advisory Committee (CIAC) in developing their capital construction plans for the city.

As a City Council, we gave Councilman Hartpence several opportunities to present his alternative views on the need for an EST at public meetings of the City Council. As part of his presentations to council, he recommended ignoring the demographic estimates our consultants made in developing the Comprehensive Plan and the legally binding commitments for build out densities previous councils had committed to in Development Agreements and in Water Supply Agreements. Councilman Hartpence suggested that we replace those build out estimates with his own unsupported aspirational estimates. FNI, the city’s professional consulting engineers disagreed with Councilman Hartpence and informed the city they would not sign and seal the Master Plan if the City elected to utilize his estimates.

Council declined to make those changes and our Master Plan reflects the legally binding commitments previous councils have made. As developers have come forward to begin their work, the Planning and Zoning Commission and the City Council have updated our Comprehensive Plan, Future Land Use Map, and Zoning regulations to reflect the legally binding and vested agreements. For years, the City has been collecting monies for the EST as prescribed within previously approved Agreements and assessed to new growth via impact fees recommended by the CIAC and adopted by the City Council.

Councilman Hartpence also wrote a statement to the Capital Improvement Advisory Committee (CIAC), which he asked be read to the group and recorded in the minutes of their CIAC meeting. The City Manager Tobin Maples read his statement to the Committee. In his statement he

requested that CIAC defer action on setting impact fees until further discussion could be had on the underlying build-out assumptions approved by City Council. CIAC declined to take this action. Councilman Hartpence voted to approve the updated plans and the recommended impact fees.

Having failed to convince either council or CIAC to adopt his new point of view, Councilman Hartpence has now engaged SFOR to pitch his case to the community. Any survey results presented to City Council will have to be viewed in the context that this survey was biased and untruthful. Following is a summary of the most egregious parts of the document.

- The priority ranking question (#3) is classic political pandering that presents the opportunity for citizens to select that they want everything but they don't want to have to pay for it. For a quick reference point, the most recent State Comptroller's report of property tax rates identifies that about 75% of the cities in Texas have a higher tax rate than ours.
- In question #7 regarding fire protection, the survey engages in unfounded speculation about how much an independent fire department would cost and what it would do for response times. The city has done absolutely no work to define this cost so the question is both nebulous and meaningless.
- In question #9 regarding development of what was called The Reserve in the past, the authors present the aspirational view of 86 homes in the City's Comprehensive plan without revealing that the comprehensive plan does not have the force of law nor is it applicable for areas outside of our city limits. The Development Agreement for 645 living units, which was approved by a previous council, is a legally binding contractual commitment but they don't tell you that. Further, the survey indicates the developer is threatening litigation to allow for 585 homes. The current vested rights as established within the Development Agreement allows 645. Why would a developer file a lawsuit against the City to build fewer homes? Clearly, the authors don't understand vested rights as prescribed by the Texas Legislature.
- The authors inaccurately describe the actions taken by the developer. The information presented in this survey regarding interactions with the developer has only been discussed in Executive Sessions of the council. It is unethical for that information to be published and increases our exposure relative to administering the terms of a legally binding development agreement and the developers vested rights and investment backed expectations. I am very disappointed that a council member would do this. At the appropriate time, we will have discussions in open council sessions just like we did for The Arbors development.
- Questions 10-12 regarding the EST insinuate that the City failed to inform residents about the project, overstate the cost to the city, ignore the valid engineering studies that have been done advising of the need for this facility, falsely state that the city interpreted TCEQ

regulations incorrectly, falsely claim that the EST is optional, and foolishly attempt to paint this issue as an ambience question.

- The EST is part of a Master Plan that was developed in full view of the public. The EST has been recommended as the proper engineering solution for years. The Master Plan has been on our website since it was formally approved by the council a couple of years ago.
  - The cost quoted in the survey ignores that a significant part of this cost is being funded by developers. The City has been collecting monies from developers for the EST for years as prescribed within previously approved Agreements and assessed to new growth via impact fees recommended by the CIAC and adopted by the City Council.
  - We function as a representative democracy in which citizens elect representatives to make decisions on their behalf. We don't make significant infrastructure investment decisions as a popularity contest. We make them based on purpose, need, and professional engineering works.
  - There was no misinterpretation of TCEQ regulations. This is just a convenient starting point for Councilman Hartpence to change his mind.
  - We presented Councilman Hartpence's view that we should use hydropneumatic tanks as a less expensive alternative to an EST to FNI's lead engineer. The response was that this was not a valid engineering solution and that they never had and never would recommend a solution like that for any water system the size of ours.
- Question number 14 about offering symbolic cuts in property tax rates when your city is already in the bottom quartile of tax rates is pure political pandering. We are already in the hole because previous administrations failed to set tax rates that funded both operations and maintenance. Further, the authors fail to make an apple to apples comparison. The operations budget for FY 19-20 was \$8.149 M. The "draft" operations budget for FY 20-21 is \$7.631 M which is a 6.8% decrease.
  - The question about reinstating the early-payment discounts on property taxes in number 15 is more political pandering and revisiting decisions already made. Council learned several years ago that this was an improper way to budget because it automatically creates a budget shortfall. There is no provision in the property tax code to recover the budget shortfall you create with this approach. That is why virtually no city governments do this, certainly not ones like ours where 71% of our revenue comes from property taxes. Councilman Hartpence supported the decision to utilize proper means and methods to prepare the annual budget.

So that's the story. Remember, this survey was so unethical it caused a majority of the active SFOR members to disassociate from the group.

If you filled out this survey without understanding the implications and without realizing that you were being misled, please take the time to write to SFOR and express your displeasure with their unethical actions. If you are really unhappy with them, click the unsubscribe button. Copy us at [mayor@fairoaksranch.org](mailto:mayor@fairoaksranch.org) or [tmaples@fairoaksranchtx.org](mailto:tmaples@fairoaksranchtx.org) so we know how many of you feel that you have been misled. Feel free to ask any additional questions you have and we will respond.