

RESOLUTION 2023-36

A RESOLUTION ORDERING A SPECIAL ELECTION TO BE HELD ON DECEMBER 9, 2023, IN THE CITY OF FAIR OAKS RANCH, TEXAS, FOR THE PURPOSE OF FILLING THE VACANCY FOR THE REMAINDER OF THE UNEXPIRED TERM OF OFFICE OF CITY COUNCIL PLACE 3; AUTHORIZING CONTRACTS WITH THE ELECTION ADMINISTRATOR OF KENDALL COUNTY TO CONDUCT THIS ELECTION AND PROCEDURES RELATED THERETO.

WHEREAS, Fair Oaks Ranch, Texas is a home rule municipality acting under its City Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, on September 22, 2023, Council Member Bliss, City Council Place 3, submitted a resignation letter to the City Secretary and Mayor Maxton; and

WHEREAS, on September 22, 2023, the Mayor Maxton accepted Council Member Bliss's resignation; and

WHEREAS, pursuant to the city's Home Rule Charter Section 3.09. – Vacancies; Forfeiture of Office; Filling of Vacancies states that 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 office, the City Council shall call a special election to fill such vacancy; and

WHEREAS, Article 11, Section 11 of the Texas Constitution states that in a city with terms exceeding two (2) years but not exceeding four (4) years must elect all of the members of its governing body by majority vote of the qualified voters in such municipality within one hundred and twenty (120) days after such vacancy occurs; and

WHEREAS, the 120th day after the acceptance of Council Member Bliss's resignation is January 20, 2023; and

WHEREAS, pursuant to Chapter 271 of the Texas Election Code, the City will contract with the Kendall County Election Administrator to conduct the City of Fair Oaks Ranch Special Called Election; and

WHEREAS, the City Council finds and determines that the holding of a special election on the date set forth below, a non-uniform election date, is in the public's interest.

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

SECTION 1. The City of Fair Oaks Ranch hereby orders a Special Election to be held on December 9, 2023, for the purpose of:

- a. Filling the vacancy for the remainder of the unexpired term of office of City Council Place 3.
- b. That qualified persons desiring to be candidates in the aforementioned City Council Place shall file applications for candidacy with the City Secretary beginning after the order of the Special Election at the October 5, 2023, Council meeting and not later than 5:00 PM on the 30th day of October, 2023.

SECTION 2. All qualified voters of the City of Fair Oaks Ranch shall be entitled to vote in said election.

SECTION 3. Early voting in said elections shall be conducted during the early voting period designated as November 27, 2023, through December 5, 2023. The Kendall County Election Administrator is hereby charged with the duty of conducting early voting in said election, as required by law. Applications for ballot by mail shall be mailed to:

Bexar County Early Voting Clerk 1103 S. Frio, Ste 200 San Antonio, TX 78207-6328 bexarcountyelections@bexar.org	F: (210) 335-0371 T: (210) 335-8683 https://www.bexar.org/1568/Elections-Department
Comal County Early Voting Clerk 396 N. Seguin Ave. New Braunfels, TX 78130 elections@co.comal.tx.us	F: (830) 608-2013 T: (830) 221-1352 https://www.co.comal.tx.us/Elections.htm
Kendall County USPS: Early Voting Clerk P.O. Box 2384 Boerne, TX 78006 UPS, FedEx, DHL, etc.: Early Voting Clerk 221 Fawn Valley Dr., Ste 100 Boerne, TX 78006 absenteevoting@co.kendall.tx.us	F: (830) 331-8295 T: (830) 331-8701 https://www.co.kendall.tx.us/page/Elections

SECTION 4 The main early polling place for the holding of said election shall be at the Kendall County Courthouse Annex, 221 Fawn Valley, Boerne, Texas 78006 on the following dates and times; early voting will also be conducted in the Van Raub School House, 8776 Dietz Elkhorn Road, Fair Oaks Ranch, TX 78015 on the following dates and times and the entire City of Fair Oaks Ranch, Texas, for the purpose of holding said election shall be and constitute one Municipal election precinct.

Main Early Voting Location: Kendall County Courthouse Annex – 221 Fawn Valley, Boerne TX 78006

Monday, November 27 – Fri. December 1.....8:00 AM to 5:00 PM
 Saturday, December 2 Closed
 Sunday, December 3..... Closed
 Monday, December 4 – Tuesday December 5.....8:00 AM to 5:00 PM

Branch Early Voting Location

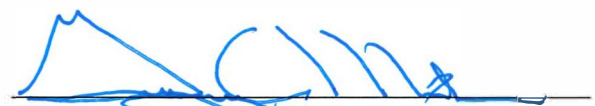
Fair Oaks Ranch Police Department’s Public Safety Training Room
 7286 Dietz Elkhorn Road, Fair Oaks Ranch, TX 78015

Monday, November 27 – Fri. December 1.....8:00 AM to 6:00 PM
 Saturday, December 2 Closed
 Sunday, December 3..... Closed
 Monday, December 4 – Tuesday December 5.....7:00 AM to 7:00 PM

- SECTION 5.** The polling place on **Election Day, December 9, 2023**, shall be located at the Fair Oaks Ranch Police Department's Public Safety Training Room, 7286 Dietz Elkhorn Road, Fair Oaks Ranch TX 78015 and will be open from 7:00 AM to 7:00 PM.
- SECTION 6.** Pursuant to Section 61.012, Texas Election Code, as amended, the City shall provide at least one accessible voting system in each polling place used in the election. Such voting system shall comply with Texas and federal laws establishing the requirement for voting systems that permit voters with physical disabilities to cast a secret ballot. Touch screen machines may be used for early voting and Election Day voting by personal appearance. Certain early voting may be conducted by mail. The Elections Administrator shall also utilize a Central Counting Station (the "**Station**") as provided by Section 127.001, et seq., Texas Election Code, as amended. Kendall County Election Administrator Staci Decker, serving as the Central Count Manager will establish a written plan for the orderly operation of the Station locations in accordance with the provisions of the Texas Election Code. The Elections Administrator will appoint the Tabulation Supervisors which will also serve as the Programmers for the Stations. Lastly, the Elections Administrator will publish notice and conduct testing on the automatic tabulation equipment relating to the Stations and conduct instruction for the officials and clerks for the Stations in accordance with the provisions of the Texas Election Code. Voting by Mail ballot and Provisional Voting shall be done on paper ballot.
- SECTION 7.** The City Secretary shall oversee all City elections in accordance with the Texas Election Code (Texas Election Code, § 1.001 et seq.), the City of Fair Oaks Ranch City Charter and any other applicable law.
- SECTION 8.** The City Secretary is hereby authorized and directed to post notice of said election, in both English and Spanish, on a bulletin board used for posting notices of the City Council meetings of the City of Fair Oaks Ranch at 7286 Dietz Elkhorn, City of Fair Oaks Ranch, Texas (the polling places for the holding of said election) not later than the twenty-first (21) day before Election Day. Said notice shall remain posted through the end of Election Day.
- SECTION 9.** The City Secretary is further authorized and directed to cause notice of said election to be published in a newspaper of general circulation in the City of Fair Oaks Ranch at least once, not earlier than the thirtieth (30th) day nor later than the tenth (10th) day before Election Day.
- SECTION 10.** The City Secretary shall send a copy of the notice of said election to the County Clerk and Voter Registrar of Bexar, Comal, and Kendall County no later than the 60th day before Election Day.
- SECTION 11.** The Council authorizes the City Manager to negotiate and enter into contracts with the Elections Administrator to conduct the elections in accordance with the provisions of the Texas Election Code in such form as shall be approved by the City Manager and the City Attorney. (Attachment A).

- Section 12.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.
- Section 13.** All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.
- Section 14.** This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 15.** If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.
- Section 16.** It is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and that public notice of the time, place and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required Chapter 551, Texas Government Code, as amended.
- Section 17.** This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on the 5th day of October 2023.



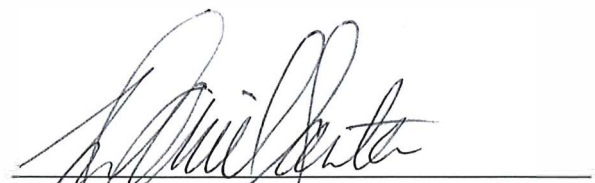
Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:



Christina Picioccio, TRMC, City Secretary



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