



FAIR OAKS RANCH MDD DIRECTOR TRAINING

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What is the MDD?



The Municipal Development District is a Fair Oaks Ranch taxing entity that was established in 2011 with the purpose of providing a stimulus of economic growth within the City of Fair Oaks Ranch.



The citizens of Fair Oaks Ranch approved a 0.5 cent tax to be added to the municipal sales tax as a funding source.



The funds collected are to be used to help fund projects, commercial, civic and governmental, that will provide for economic, social, and civic growth while ensuring or increasing property values.



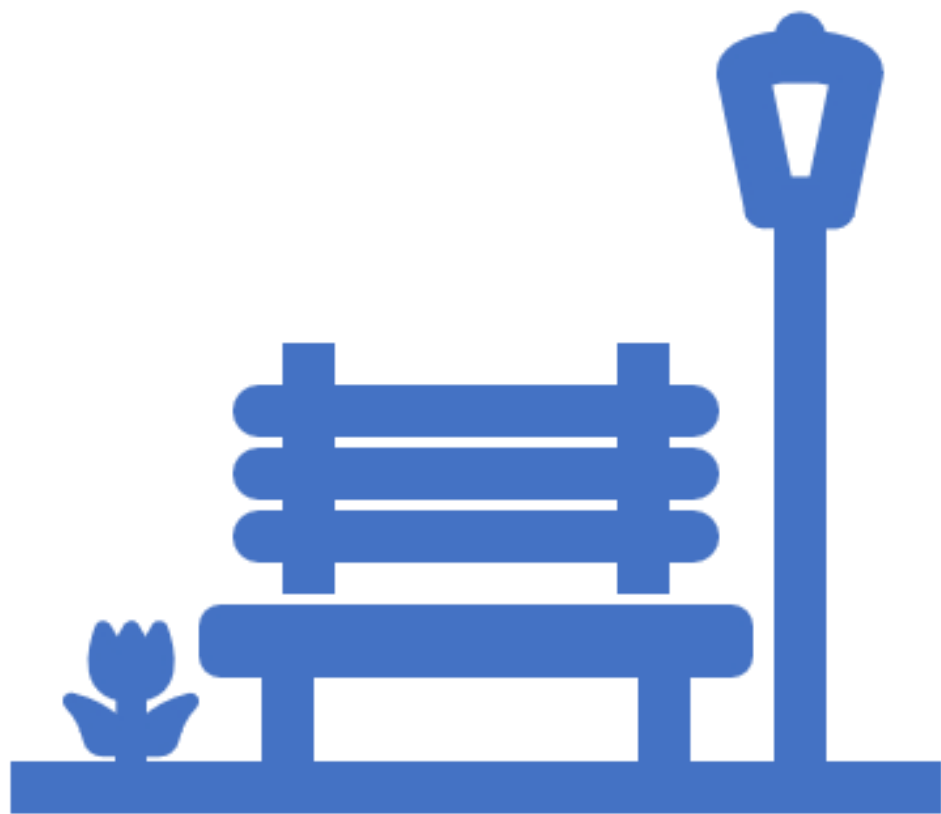
Authority

- Texas Local Government Code Chapter 377
 - A municipality may create a Municipal Development District comprising all or part of its city limits, all or part of its extraterritorial jurisdiction (ETJ), or any combination of all or part of these areas.

MDD Mission Statement

The Mission of the Fair Oaks Ranch Municipal Development District is to approve funding for economic development, retention and improvement of the District, and for the improvement of short and long-term property values.





Who can use the MDD funds?

Commercial entities, civic organizations, governmental organizations and not for profit entities can apply for funding of projects that are qualified and meet standards that will provide economic growth, improve the quality of life for residents of Fair Oaks Ranch or offer social and/or safety benefits to the city and its residents.




Statutory Purpose

Create for planning, acquiring, establishing, developing, constructing, or renovating one or more development projects; and

A convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, or auditorium, including parking areas located at or in the vicinity of other convention center facilities.

General

- May NOT levy property tax
 - Sales Tax
 - 1/8, 1/4, 3/8, or 1/2 of 1 percent
 - Election
 - Joint Proposition: Tax Code Section 321.409
 - ETJ issues
 - Separate ballot issues
 - Unique adoption language in TLGC Chapter 377
 - Meetings are subject to the Texas Open Meetings Act
 - Meetings must be held within the City limits
- 

Political Subdivision



The District is a Political Subdivision of the State of Texas and the City.



Essentially the District is an entity separate and apart from the City.



May issue bonds, including revenue bonds and refunding bonds, or other obligations to pay the cost of a project



Certain tax exemptions apply while the District owns a project.

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State Requirements for Board of Directors

Minimum of 4 Directors

Appointed by City Council

Must reside in City Limits or ETJ

Employee, officer or member of the City Council may serve

No compensation

Directors serve staggered two-year terms

Directors may be removed by City Council at any time without cause

Local Requirements for Board of Directors

7 Directors

Appointed by City
Council

Must reside in City
Limits or ETJ

Two members of
the City Council
shall serve one
member of FORHA

No compensation

Directors serve
staggered two-year
terms

Directors may be
removed by City
Council at any time
without cause

Powers



Perform any act necessary to the full exercise of the district's powers



accept a grant or loan from a department or agency of the United States; department, agency, or political subdivision of Texas; or a public or private person;



acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including a development project, under terms and conditions determined by the district

Powers (cont'd)

- employ necessary personnel
- adopt rules to govern the operation of the district and its employees and property
- contract with a public or private person to plan, acquire, establish, develop, construct, or renovate a development project; or perform any other act the district is authorized to perform under Texas Local Government Code Chapter 377.

Development Project Fund

The district shall deposit into the development project fund:

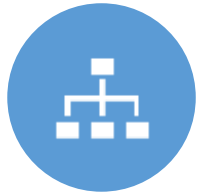
- the proceeds from any sales and use tax imposed by the district;
- all revenue from the sale of bonds or other obligations by the district; and
- any other money required by law to be deposited in the fund.



Projects

- Projects may be undertaken anywhere within the District boundaries and include:
 - A convention center facility, or related improvements such as a civic center or auditorium.
 - Parking lots for such convention or related facilities.
 - Civic center hotels.
 - Projects as defined by Texas Local Government Code sections 505.151-505.158

Projects



505.151 – Generally Type A Projects



505.152 – Projects Related to Recreational or Community Facilities



505.153 – Projects Related to Affordable Housing



505.154 – Projects Related to Water Supply Facilities and Water Conservation Programs



505.155 – Projects Related to Business Enterprises that Create or Retain Primary Jobs



505.156 – Projects Related to Certain Business Enterprises in Certain Municipalities



505.158 – Projects Related to Business Development in Certain Small Municipalities

Policy For Evaluation Of Development Projects

Process Framework A development project evaluation process will be established through guidelines approved by Board to ensure that development project grant proposals are consistently and objectively evaluated.

The overall framework for the guidelines will include the following:

1. Each proposed development project grant will be evaluated to determine merit for funding based on the MDD Board's assessment of eligibility and quality.
2. To assess eligibility of proposed development project grants, the Board will establish a Eligible Project Category (Appendix A) to describe the types of projects that are qualified for MDD funding consideration. The information on the Eligible Project Category (Appendix A) may be modified at the discretion of the Board. Items may be placed on the Eligible Project Category (Appendix A) by the MDD Board based on the following criteria: 2.1. Compliance with relevant statutes and City ordinances & codes 2.2. Alignment with MDD Board's mission, goals & objectives
3. The Board will establish Project Application & Evaluation Guidelines (Appendix B) to evaluate eligible development project grant proposals in an objective and consistent method. The Project Application & Evaluation Guidelines may be modified at the discretion of the Board.

Summary of Differences

Not a corporation

- No requirement for Certificate of Formation
- No requirement for By-Laws

Broader authority for projects

Sales tax collected in the City's ETJ

Not required to comply with regulations found in Texas Local Government Code Title 12, Subchapter C-1

Resources

Texas Legislature On-Line (<http://www.statutes.legis.state.tx.us/>)

TLGC Chapter 377

TLGC Chapter 501

TLGC Chapter 505



Texas Municipal League Economic Development Handbook



Excerpts from the

The Texas Open Meetings Act



Applicability of the Act – What constitutes a meeting?

Definition One

- A meeting occurs when:
 1. A quorum of a governmental body gathers; and either:
 1. the public business that the governmental body has authority to supervise or oversee is discussed; and
 2. a member of the governmental body participates in the discussion.
- Simply stated: A quorum of members exchange information about public business or public policy over which the body has supervision or control.
- Examples: formal meeting, attendance at another entity's meeting, using the restroom, "walking quorum," circulating an invoice or letter for signature outside of a meeting, e-mail, videoconferencing
- Develop a habit of asking yourself, "is this a meeting?"

Applicability of the Act – What constitutes a meeting?

Definition Two

- If the gathering is called by the governmental body, or the governmental body is responsible for the gathering, a meeting occurs when:
 1. A quorum of a governmental body gathers;
 2. the public business that the governmental body has authority to supervise or oversee is discussed; and
 3. the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body.
- Simply stated: The governmental body calls a gathering of a quorum of members to receive or give information to or from a third person about public business or public policy over which the governmental body has supervision or control.
- Examples: attendance at a city's board or committee meeting, "staff briefings"

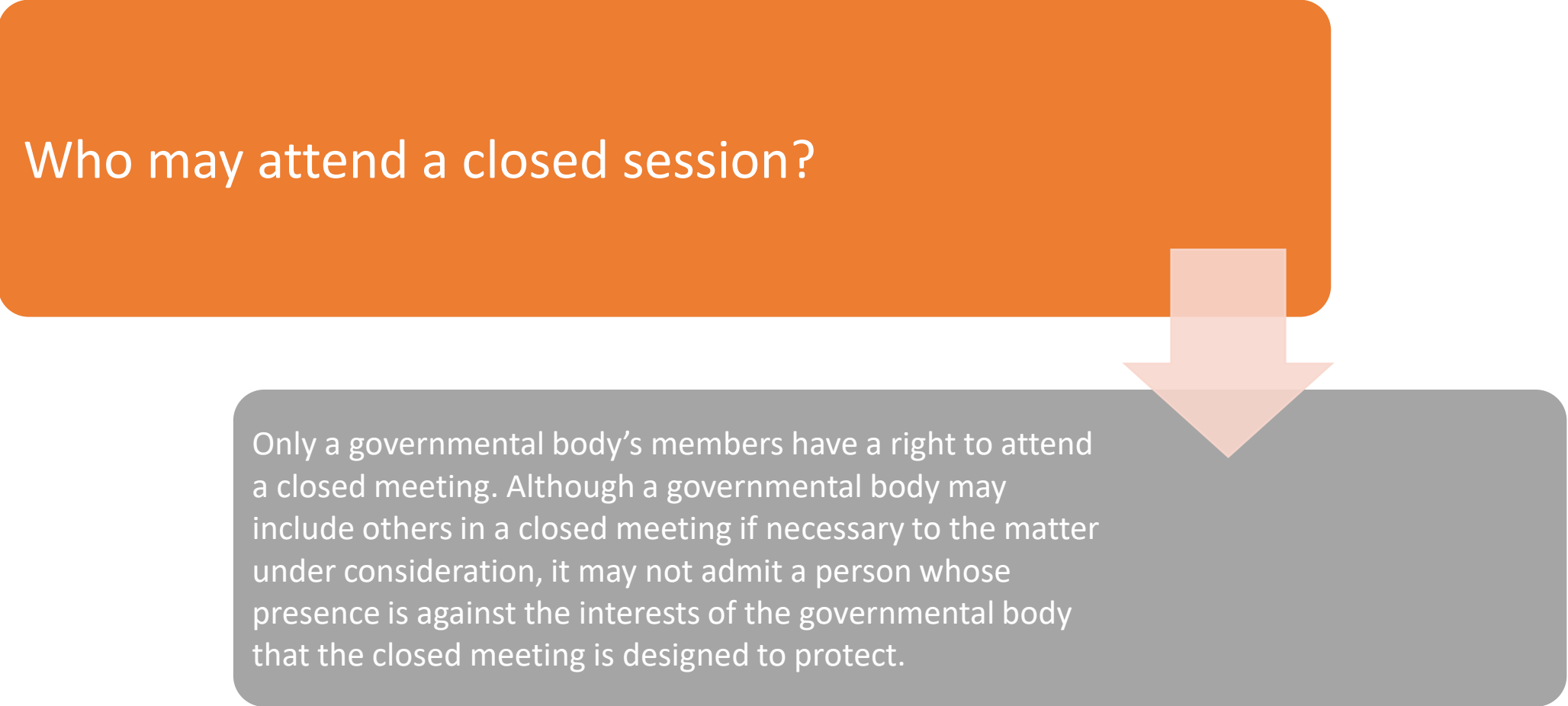
Applicability of the Act – What constitutes a meeting?

- The Act does not apply to social functions or regional, state, or national workshops if the governmental body's public business is not discussed and no formal action is taken.




Procedures and requirements – closed meetings(executive sessions)

Who may attend a closed session?



Only a governmental body's members have a right to attend a closed meeting. Although a governmental body may include others in a closed meeting if necessary to the matter under consideration, it may not admit a person whose presence is against the interests of the governmental body that the closed meeting is designed to protect.



Procedures and requirements – common closed sessions

Real Property Deliberations

- to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person

Personnel Matters

- to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
- to hear a complaint or charge against an officer or employee
- must be conducted in open session if the officer or employee requests a public hearing

Procedures and requirements – common closed sessions

Economic Development

- to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations
- to deliberate the offer of a financial or other incentive to a business prospect that meets the above requirements

Consultation with Attorney

- to seek advice about legal matters, pending or contemplated litigation, or settlement offers
- Governmental body's attorney must be present if employee, unless the meeting is held in compliance with §551.127 (may be present by conference call, videoconference, or Internet communications if a contract attorney)
- General discussion of policy not permitted

Security/Homeland Security Measures

Procedures and Requirements – CLOSED Sessions

- A governmental body may hold a closed meeting only when a statute expressly authorizes it to do so & notice is posted.
- To conduct a closed session, a governmental body must:
 1. have a quorum;
 2. properly convene in an open meeting;
 3. announce that a closed meeting will be held;
 4. identify in the open meeting the section of the law that allows the closed meeting; and
 5. keep a certified agenda or a recording of the closed meeting:
 - a) the certified agenda must include a statement of the subject of each deliberation and a record of any further action taken
 - b) The certified agenda or recording is confidential and may not be released absent court action
 - c) A sitting member of the governmental body may review the certified agenda or recording.
- 6. No final action or vote may be taken in a closed meeting.

recordkeeping

The Act requires a governmental body to make and keep a certified agenda or recording of most closed meetings.

The minutes must:

A brief summary is all that is required - a verbatim transcript is not necessary.

The presiding officer announced the date and time at both the beginning and end of the meeting

State the subject of each deliberation

Indicate each vote, order, decision, or other action taken

Certification that the agenda is a true and correct record

recordkeeping



The minutes or recording of the meeting are public records, and must be made available pursuant to a request



Certified agendas or recordings of a closed meeting are confidential, shall be preserved for at least 2 years



Under the Records Retention Act, a governmental body must have a Texas State Library-approved retention schedule for its records (for more information, please visit www.tsl.state.tx.us)



Generally, if minutes are transcribed from a recording, the recording must be kept for 90 days after the written minutes are approved

Excerpts from
the

The Texas Public Information Act



Applicability of the Act – What is public information?

§552.002 states in part.....(a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Information is in connection with a transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Applicability of the Act – What is public information?

Every form of information is covered

- Paper, video, e-mail, Internet postings, text and instant messages, computer data, audiotapes, microfilm, etc.

It does not matter where the information is located

- Any information located at home or on a home computer, such as e-mails and documents, regarding official city business may be considered public information
- Information sent to storage, or a third party may be considered public information



What is a public information request?

Must be in writing to trigger the Act

Must ask for information in existence as of the date the request was received

No “magic words” required

No requirement to label it as an open records request

Can be typed or handwritten

METHODS TO SUBMITTING AN OPEN RECORDS REQUEST

§552.234



(a) A person may make a written request for public information only by delivering the request by one of the following methods to the applicable officer for public information or a person designated by that officer:

- (1) United States mail;
- (2) Electronic Mail;
- (3) Hand Delivery; or
- (4) Any other appropriate method approved by the governmental body, including:
 - (A) Facsimile transmission; and
 - (B) Electronic submission through the governmental body's Internet website.

METHODS TO SUBMITTING AN OPEN RECORDS REQUEST

§552.234

(c) A governmental body may designate one mailing address and one electronic mail address for receiving written requests for public information.

(d) A governmental body that posts the mailing address and electronic mail address designated by the governmental body under Subsection (c) on the governmental body's Internet website or that prints those addresses on the sign required to be displayed by the governmental body under Section 552.205 is not required to respond to a written request for public information unless the request is received:

- (1) At one of those addresses;
- (2) By hand delivery; or
- (3) By a method described by Subsection (a)(4) that has been approved by the governmental body.



Request for Information



The public can:

Request copies of information
Request to inspect information on-site



The public can't:

Request the governmental body to create new documents, answer questions, or to perform legal research



Governmental bodies must:

Display a sign
(<https://www.texasattorneygeneral.gov/opengovernment/governmental-bodies/pia-poster>)



Governmental bodies can't:

Ask why a requestor wants the information or what he or she intends to do with it

Processing the requests

Governmental bodies should:

- date stamp the request
- require that requests be made in writing
- document any changes to request in writing
- develop a policy and procedure

Governmental bodies may contact requestor to:

- clarify ambiguous requests
- narrow request if the amount of information might be voluminous (narrowing is not required and the governmental body cannot make the requestor narrow their request)



Governmental bodies Response to Open Record Requests

Must treat all requests uniformly – no preferential treatment

Must make a good faith effort to relate a request to information held by the governmental body

Must make available during business hours

Attorney General Ruling Process

Must request a ruling within 10 business days of receipt of the request

- Send a letter to AG detailing what exceptions apply
- Ten business days starts the day after the day you receive the request
- Weekends and holidays (including skeleton crew days) when your office is closed do not count

Submit arguments and sample materials within 15 business days of receipt of the request

- Must include a copy of the original PIA request
- Must include evidence of the date the request was received
- Sample materials must be bracketed and labeled showing what exceptions apply

Only governmental bodies can request AG rulings –
Requestor may appeal withholding under §§ .024, .130, .136, .138, and .1175

Temporary Custodians



Affirmative duty for current or former public officers or employees to preserve and/or transfer information held on private devices



References the Records Retention Act



No personal or property right in public information created or received by an officer or employee while acting in official capacity



Temporary custodians

- Public information officer must make reasonable efforts to obtain public information from a temporary custodian
- Temporary custodian's failure to comply subjects them to discipline, if they are an employee, and/or penalties under the Act if they are an employee or official
- Extensive amendments to provisions on contracting and proprietary information

Questions?

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