

AMENDED AGENDA

NOTICE OF A MEETING
OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD

Notice is hereby given that a Special Meeting of the City Council of the City of Hempstead will be held on **Tuesday, the 28th day of September, A.D., 2021 at 6:00 P.M.** at the **Hempstead Recreation Center, 635 Business Highway 290 E, Second Floor, Hempstead, Texas**, at which time the following subjects will be discussed, to-wit:

1. Call to order and invocation.
2. Pledge of Allegiance.
3. Public Comments.
4. A. Public Hearing on Replat for Legendary Oaks Golf & Recreation Center of 185.55 acres (8,082,570 square feet) out of Legendary Oaks Subdivision, Cabinet File No. b-42, W.C.P.R. and in Vol. 648, Pg. 829, W.C.O.P.R., Waller County, Texas, to create four unrestricted reserves. The property that is the subject of this replat is zoned Agriculture-Residential by the City of Hempstead Zoning Ordinance.
B. Consideration and action on Replat of Legendary Oaks Golf & Recreation Center of 185.55 acres (8,082,570 square feet) out of Legendary Oaks Subdivision, Cabinet File Slide No. B-42, W.C.P.R. and in Volume 648, Pg. 829, W.C.O.P.R., Waller County, Texas to create four unrestricted reserves.
5. Consideration and action on a Resolution of the City Council of the City of Hempstead, Texas, amending the Family Medical Leave Act Policy for City of Hempstead Employees.
6. Adjourn City Council Meeting.

The City Council of the City of Hempstead reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below authorized by Texas Government Code, Sections 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), 551.087 (Economic Development), and 551.086 (Certain Public Power Utilities: Competitive Matters). Council may act in Open Session on any item listed for Executive Session.

Dated this the 24th day of September, A.D., 2021.

By: 
Barbara Haffelfinger, City Secretary

I, the undersigned authority, do hereby certify that the above Notice of a Special Meeting of the governing body of the City of Hempstead is a true and correct copy of said Notice, and that a true and correct copy of said Notice was posted on the City Hall bulletin board and entrances to City Hall, in the City Hall of said City of Hempstead, Texas, a place convenient and readily accessible to the general public at all times, and that said Notice was posted on

September 24, 2021 at 2:30 P.M. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 24th day of September, A.D., 2021.

By: 
Barbara Haffelfinger, City Secretary

PUBLIC PARTICIPATION BY TELEPHONE

The City of Hempstead City Council **may** conduct the meeting scheduled at **6:00 P.M. on Tuesday the 28th day of September at the Hempstead Recreation Center, 635 Business Highway 290 E, Second Floor, Hempstead, Texas.** The public will be permitted to offer public comments telephonically as provided by the agenda and as permitted by the presiding officer during the meeting. A recording of the telephonic meeting will be made and will be available to the public upon written request.

The toll-free dial-in number to participate in the meeting telephonically is:

1-346-248-7799; Access Code 989-478-2100

IF CITY COUNCIL MEMBERS ARE GOING TO APPEAR BY VIDEOCONFERENCE A QUORUM OF COUNCILMEMBERS MUST BE PRESENT AT THE LOCATION.

NOTICE OF MEETING BY VIDEO CONFERENCE

The City of Hempstead City Council **may** conduct the meeting scheduled at **6:00 P.M. on Tuesday, the 28th day of September at the Hempstead Recreation Center, 635 Business Highway 290 E, Second Floor, Hempstead, Texas** by videoconference in addition to allowing in person attendance. A quorum of the City Council will be physically present at the Hempstead Recreation Center, 635 Business Highway 290 E, Second Floor, Hempstead. The public may participate in the City Council Meeting by using the following information:

1-346-248-7799, Access Code 979-478-2100



City of Hempstead

1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703

RESOLUTION NO. 21-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS, AMENDING A FAMILY MEDICAL LEAVE ACT POLICY FOR CITY OF HEMPSTEAD EMPLOYEES

* * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. That the City Council hereby amends the Family Medical Leave Act Policy for the City of Hempstead employees as set for in Exhibit "A" attached hereto and incorporated herein for all purposes.

PASSED AND APPROVED this the 28th day of September, A.D., 2021.

APPROVED:

Dave Shelburne, Mayor

ATTEST:

Barbara Haffelfinger, City Secretary

CITY OF HEMPSTEAD FAMILY AND MEDICAL LEAVE ACT POLICY

1. DEFINITIONS

As used in this Section, the following terms shall have the meanings set forth below.

- a. "Eligible employee" shall mean an employee who has been employed (i) for at least twelve months by the City and (ii) for at least 1250 hours of service with the City during the previous twelve-month period.
- b. "FMLA" shall mean the Family and Medical Leave Act of 1993, as amended.
- c. "Health care provider" shall mean a licensed physician, dentist, psychologist, optometrist, or chiropractor, and also includes a licensed nurse practitioner, nurse midwife, clinical social worker, and Christian Science practitioner.
- d. "Parent" shall mean the biological parent of an employee or an individual who stood in the place of a parent to an employee when the employee was a son or daughter.
- e. "Reduced leave schedule" shall mean a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
- f. "Serious health condition" shall mean an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

g. "Son" or "daughter" shall mean a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent, who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or physical disability.

h. "Spouse" shall mean a husband or wife, as the case may be.

i. "Twelve-month period" shall mean a "rolling" twelve-month period measured backwards, from the date an employee uses any FMLA leave.

2. **ELIGIBILITY:** Eligible employee who has worked for the City for at least 12 months (52 weeks) and at least 1250 hours during the previous 12-month period before taking leave. An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

3. **ENTITLEMENT:**

a. Total of 12 work weeks of leave during any 12-month period (12-month period is a "rolling" 12-month period measured backwards from the date an employee uses FMLA Leave). Each time an employee takes FMLA leave, the remaining entitlement would be any balance of the 12 weeks that has not been used during the immediately preceding 12-month period. For example, if employee has taken 8 weeks of leave during the past 12 months, an additional four weeks of leave could be taken.

b. Total of 26 weeks of unpaid leave in a single 12-month period to care for a serious illness or injury incurred by military personnel in the line of active duty.

c. Only the amount of leave actually taken counts towards the 12 weeks of leave:

d. Intermittent Leave: An employee who normally works 5 days a week and takes off one day, 1/5 of one week of FMLA Leave is used.

e. Reduce Schedule Leave: An employee who normally works 8-hour days works 4-hour days under a reduced leave schedule would use 1/2 week of FMLA Leave each week.

4. **REASONS:**

a. Birth and care of a newborn child of the employee;

b. Placement with the employee of a son or daughter for adoption or foster care;

c. To bond with a child (leave must be taken within one year of the child's birth or placement);

d. To care for a spouse, son, daughter, or parent with a serious health condition;

e. To take medical leave when the employee's own qualifying serious health condition makes the employee unable to perform the employee's job;

f. For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or Reserves in support of a contingency operation;

5. **PAID LEAVE:**

a. Accrued vacation leave and compensatory time used for birth, placement for adoption, and placement for foster care;

b. Accrued sick leave for care for a newborn child (maternity leave);

c. Accrued vacation, sick, and compensatory time for serious health condition of employee, spouse, parent, or child;

d. Accrued vacation, sick and compensatory time to address qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or Reserves in support of a contingency operation;

e. Workers' Comp and Short-Term Disability;

6. DOCUMENTATION:

a. Each department head shall document FMLA leave, both paid and unpaid, and forward a copy to City Finance Department and the employee.

b. Employee may request FMLA leave in writing with 30 days notice, if foreseeable.

c. An employee requesting FMLA leave, or if leave is determined by the department head to be FMLA-related, the employee shall be required to submit certification by a health care provider of the serious health condition. The employee shall also be required to submit corroborating documentation of the birth of their son or daughter, adoption, or foster care placement with the employee. Certification forms are available from the City Secretary and must be properly completed by the employee and health care provider or social caseworker. Required Certification forms are available from the City Secretary.

d. Employees must provide sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also

must inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified.

e. Employees also may be required to provide a certification and periodic recertification supporting the need for leave, consistent with any applicable state law. In any case in which the City has reason to doubt the validity of the certification of the employee's serious health condition that was provided, the City may require, at the City's expense, that the employee obtain the opinion of a second health care provider designated or approved by the City, concerning any information certified by the health care provider. If the City determines that the certification is incomplete, it must provide a written notice to the employee indicating what additional information is required

7. **MEDICAL AND RETIREMENT COVERAGE:**

a. Except as hereinafter provided, the City shall continue to provide medical coverage for employees on non-paid FMLA leave as if the employee were actively working. If, at the time non-paid leave is taken, an employee was required to pay a portion of the premiums for medical coverage; the employee will be required to pay that portion of the premium while on non-paid FMLA leave and shall submit that payment to the City Secretary on the first day of each month. If payments are more than thirty (30) days late, the medical policy benefits shall cease. If an employee elects not to return to work after non-paid FMLA leave, the employee will be required to reimburse the City for the cost of medical coverage premiums paid by the City during the employee's non-paid leave.

b. Sick leave shall continue to accrue during non-paid FMLA leave.

c Texas Municipal Retirement System ("TMRS") contributions shall cease after 3 continuous weeks of non-paid FMLA leave.

8. **REPORTING WHILE ON FMLA LEAVE:**

While on FMLA leave, the employee shall report to or contact their immediate supervisor each Monday regarding their condition and/or their intention to return to work. This contact shall be documented by the supervisor on the FMLA Employee Contact form. In the event an official holiday falls on Monday, the employee shall report on Tuesday. This form shall be forwarded to the department head for review, action, and record keeping.

9. **SENIORITY:**

An employee returning to work after FMLA leave shall retain the same length of service seniority as he or she had when the leave began. For example, if an employee had three (3) years and four (4) months seniority when the leave began, upon return to work, the employee would retain three (3) years and four (4) months seniority, no matter how long the leave.

10. **OUTSIDE EMPLOYMENT WHILE ON FMLA LEAVE:**

An employee shall not engage in any outside employment while on leave (paid or non-paid), if the leave is due to the employee's serious health condition. An employee on leave for any reason other than his or her own serious health condition may not engage in any employment in excess of twenty (20) hours per week and at no time during the employee's regularly scheduled work hours.

11. **RESTORATION TO POSITION:**

a. An employee desiring to return to work after an illness or injury FMLA leave in excess of four (4) days shall be required to submit a Fitness-for-Duty Certification form from the health care provider as indicated on the Request for FMLA Leave form. If a Fitness-for-Duty Certification is required, the employee shall not be allowed to return to work until such Certification is submitted. The employee shall be returned to the same or equivalent position as that held when the leave began, with equivalent pay, benefits, and other employment terms and conditions.

b The City may deny the return to work of an employee from FMLA leave if the employee:

(1) fails to submit any required Fitness-for-Duty Certification;

(2) is no longer qualified for the job and no reasonable accommodation can be made;

(3) fraudulently obtained leave;

(4) violated the outside employment policy or violated any policy or law while on leave; or

(5) unequivocally states his or her intent not to return to work.

12. **ENTITLEMENT**

- a. An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.
- b. An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.
- c. Employees may choose, or the City may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the City's normal paid leave policies.

13. ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the City. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

14. UNLAWFUL ACTS

a. FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

15. THE CITY'S RESPONSIBILITIES

The City will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required, as well as the employees' rights and responsibilities. If they are not eligible, the City will provide the employee with a reason for the ineligibility. The City will also inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. The City will also notify the employee if it determines that the leave is not FMLA-protected.