



City of Garden Ridge

"A way of life, not just a place to live"

MINUTES CITY COUNCIL REGULAR MEETING WEDNESDAY, MAY 1, 2019, 6:00 P.M.

Councilmembers Present:

Mayor Larry Thompson
Mayor Pro-Tem John McCaw
Councilmember Robb Erickson
Councilmember Bryan Lantzy
Councilmember Kay Bower
Councilmember Todd Arvidson

Councilmembers Absent:

None

City Staff Present:

Nancy Cain, City Administrator
Marisa Spencer, City Secretary
Kat Balbi, Utility Clerk
Cynthia Trevino, City Attorney
Ron Eberhardt, Police Chief
Jacob Parsons, Water Manager
Brad Olivarri, Deputy Water Manager
Steven Steinmetz, Public Works Director
Linda Crosland, Librarian
Karen Ford, Finance/HR

City Commission Representatives Present:

Dr. Jim Miller, Chair, Planning and Zoning Commission
David Heier, Chair, Water Commission/Planning and Zoning Commissioner
Cynthia Segovia, Chair, Wildlife Management Advisory Commission
Wayne Mudge, Vice-Chair, Quarry Commission

Other City Commissioners in Attendance:

Mark Hausheer, Vice-Chair, Planning and Zoning Commission
Karen Diaz, Planning and Zoning Commissioner
David Dauer, Planning and Zoning Commissioner
Jesse Valdez, Planning and Zoning Commissioner/Water Commissioner
Mark DuBois, Quarry Commissioner
Ray Pitzen, Water Commissioner
Dawn Hatch, Wildlife Management Advisory Commissioner
Ken Kneupper, Wildlife Management Advisory Commissioner

1. Call to Order

With a quorum of the City Council members present, Mayor Thompson called the regular meeting of the Garden Ridge City Council to order at 6:00 p.m. on Wednesday, May 1, 2019, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

2. Roll Call

See above.

3. Pledge of Allegiance

At the request of the Garden Ridge Citizens Police Academy Alumni Association, the JROTC presented the colors in honor of National Police Week. Mayor Thompson led the Pledge of Allegiance.

4. Proclamation

a) Mayors' Monarch Pledge Day

Mayor Thompson presented a proclamation to Cynthia Shanahan-Segovia, Chair of the Wildlife Management Advisory Commission, and Jan Martin, Comal County Master Gardeners, declaring May 1st, 2019, as Mayors' Monarch Pledge Day in the City of Garden Ridge.

Chair Segovia, Wildlife Management Advisory Commission, thanked Mayor Thompson and the City Council for taking action to help increase the monarch butterfly population by committing to the National Wildlife Federation's Mayors' Monarch Pledge. She also thanked Jan Martin and Rick Cross for expanding on the work started by Kathy and Shelby Trial in the gardens outside of City Hall and the Library and Linda Potts for her work at Park Lane Park.

5. Presentations

a) Present Texas Book Festival grant to Linda Crosland, Librarian.

Mayor Thompson presented a certificate signed by the Executive Director of Texas Library Grants to Linda Crosland, Librarian, for a Texas Enhancement Grant funded by Texas Book Festival and awarded to the Garden Ridge Library. Mayor Thompson thanked Linda Crosland for her continued hard work, dedication, and positivity.

Linda Crosland, Librarian, spoke regarding the history and mission of the Texas Book Festival. She expressed gratitude for the generosity and encouragement from Texas Book Festival and the children will love the \$2,500 worth of books that will be purchased.

b) Receive presentation from Rufino Lozano, Comal County Chief Appraiser, regarding Notices of Appraised Value for the 2019 Tax Year.

Mayor Thompson stated Rufino Lozano, Comal County Chief Appraiser, was speaking at another meeting and is not in attendance yet, therefore, this item would be moved to occur as soon as he arrives.

6. City/Employee Recognitions/Employee Introductions

a) Thank you from Denice Hanz to the Garden Ridge Police Department and Mayor Thompson.

Nancy Cain, City Administrator, stated a thank you was received from Denice Hanz to the Garden Ridge Police Department and Mayor Thompson for putting on the Garden Ridge Citizens Police Academy.

Mayor Thompson also expressed his appreciation of the Garden Ridge Police Department for their hard work and dedication throughout the Garden Ridge Citizens Police Academy and requested Chief Eberhardt to pass along these appreciations to all of his officers because he knows all officers were involved.

7. Citizen Comment Period – limited to 30 minutes total

Mayor Thompson reviewed the rules and laws for Citizen Comment Period, adding anyone is welcome and encouraged to meet with him or City Council to discuss any questions, comments, or concerns. He also reminded everyone that when City Council is looking down while a citizen is speaking, they are taking notes about what is being discussed. Mayor Thompson stated the first citizen that signed up wrote that she wished to speak last so he would start with the second citizen that signed up.

Martha Stipp, 21007 Cedar Branch, thanked Councilmember Erickson for serving on City Council and the Wildlife Management Advisory Commission. She spoke regarding candidate/officeholder campaign finance reports and requests for public information.

Tony Overman, 18955 FM 2252, spoke regarding the need for a sewer line on FM 2252 and expressed his support of the sewer line. He stated he wanted to clarify misinformation that was previously provided to City Council by individuals he does not know and has never spoken with.

Dawn Hatch, 8377 Twisted Oaks, thanked City Council for the opportunity to serve on the Wildlife Management Advisory Commission and stated she is resigning. She spoke regarding how she has been treated while serving on the Commission, transparency, and accepting a new position to support wildlife.

8. Consent Agenda

THE FOLLOWING ITEMS MAY BE ACTED UPON IN A SINGLE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THESE ITEMS WILL BE HELD UNLESS REQUESTED BY A MEMBER OF CITY COUNCIL. PUBLIC COMMENT ON CONSENT AGENDA ITEMS MAY BE HEARD DURING CITIZEN'S PARTICIPATION, BUT COMMENTS HEARD DURING CITIZEN'S PARTICIPATION DOES NOT MEAN THAT THE ITEM WILL BE CONSIDERED OUTSIDE THE CONSENT AGENDA.

a) Approval of Minutes:

- i. April 3, 2019 City Council Regular Meeting**

b) Financial Statement, Summary Report, and Management's Discussion and Analysis of Results of Operations – March 31, 2019.

c) Resolution 446-052019 A Resolution of the City of Garden Ridge, Texas, suspending the CenterPoint Energy 2019 Annual GRIP Adjustment for the south Texas division in the City of Garden Ridge for a period of forty-five (45) days from May 27, 2019.

Motion: A motion was made by Councilmember Erickson, seconded by Councilmember Lantzy, to approve the Consent Agenda items 8. a) – c). The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

9. Personnel Items

The following items are for discussion, consideration, and action.

a) Consider the resignation of Kelly Curtright, Assistant Librarian, effective April 26, 2019.

Linda Crosland, Librarian, spoke regarding Kelly Curtright and her resignation, adding that she stated she will be greatly missed. Mayor Thompson stated Kelly Curtright had a tremendous impact on the programs in the Garden Ridge Library and thanked her for her dedication.

Motion: A motion was made by Councilmember Erickson, seconded by Mayor Pro-Tem McCaw, to accept the resignation of Kelly Curtright, Assistant Librarian, effective April 26, 2019. During the discussion of the motion, Councilmember Bower thanked Linda Crosland, Librarian, for creating a great slideshow presentation that showed Kelly Curtright's personality and uniqueness. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

10. Executive Session

The City Council will recess its open meeting and reconvene in Executive Session:

a) Pursuant to Texas Government Code Section 551.074 – Personnel Matters

- 1. To hear a charge or complaint against Chief Eberhardt and receive report on investigation of same.**

Mayor Thompson stated the investigation report regarding the complaint against Chief Eberhardt was attorney client privileged information; however, if City Council is willing to waive this privilege then he would like to discuss the investigation and disposition in this public forum.

Motion: A motion was made by Councilmember Bower, seconded by Councilmember Lantzy, to waive attorney client privilege for the sake of transparency. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

11. Personnel Items (continued)

The City Council will reconvene into Regular Session upon conclusion of the Executive Session and may recall any items posted for Executive Session for action, as necessary.

a) Deliberation and action on releasing result of investigation into charge/complaint against Chief Eberhardt.

Nancy Cain, City Administrator, stated she received a written complaint from Anthony Frasco on March 25, 2019, alleging that Garden Ridge Police Chief Ron Eberhardt was handing out electioneering cards, soliciting votes, and money for Mayor Larry Thompson while in uniform and on duty. She stated Mr. Frasco alleged this occurred on March 13, 2019, at Coffee With A Cop held at First United Bank. She stated the Citizen Complaint triggered an investigation in accordance with the City of Garden Ridge Personnel Policy Manual, Section 8, Investigations, for a possible violation by Chief Eberhardt of Section 5.11. Political Activities. She spoke regarding the formation and members of the Investigation Committee and stated the expense incurred by the City of Garden Ridge to conduct the investigation was \$1,473.50 and over 20 hours of staff time.

Cynthia Trevino, City Attorney, spoke regarding Attorney Scott Tschirhart, the investigation process and details, and the outcome of the investigation (see attached).

Mayor Thompson stated the complaint was unfounded and the complainant was not present. He stated he felt it was important for the public to know the impacts and costs associated with these kinds of false claims. Mayor Thompson apologized to Chief Eberhardt and Ken Kneupper for having to deal with such a malicious attack, but their full cooperation was greatly appreciated. The City Council discussed writing a letter to accompany the documentation in Chief Eberhardt's personnel file to exonerate him and show their support of Chief Eberhardt.

Motion: A motion was made by Councilmember Bower, seconded by Councilmember Erickson, to accept the findings of the investigation revealing the complaint was an unfounded, false claim with no truth to it and to affix signatures to a letter expressing City Council's support of Chief Eberhardt to accompany the documentation in Chief Eberhardt's personnel file. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

12. Staff Reports

The following items are for discussion, consideration, and action.

a) City Administrator Monthly Activity Report

- **Community Center usage and financial report, Building Permits issued to date for residential, commercial and minor construction projects, City Council Idea/Suggestions, communication efforts, Citizen Concern/Input, and upcoming events.**

Nancy Cain, City Administrator, provided an update regarding the Household Hazardous Waste and Spring Clean-Up Event that was held on April 6th. She stated 18,650 pounds of hazardous material was collected, 7,500 pounds of paper was shredded, and 150 pounds of medical waste was disposed of. She reminded everyone of the City Council Special Meeting on Tuesday, May 14th at 6pm to canvass election results.

Mayor Thompson stated Rufino Lozano, Comal County Chief Appraiser, was in attendance; therefore, he would like to move the following agenda item at this time.

5. Presentations

b) Receive presentation from Rufino Lozano, Comal County Chief Appraiser, regarding Notices of Appraised Value for the 2019 Tax Year.

Rufino Lozano, Comal County Chief Appraiser, spoke regarding the City of Garden Ridge Value Growth and Notices of Appraised Value for the 2019 Tax Year (see attached). He stated for the City of Garden Ridge 2018-2019 values there was approximately a 10.1% average increase with a taxable increase of only 8.1%. He addressed questions and concerns from Councilmembers.

The City Council thanked Rufino Lozano for his time in preparing and providing this information.

b) Police Department Monthly Activity Report

- Traffic Enforcement, criminal activity within City, and Code Compliance Enforcement.

Ron Eberhardt, Police Chief, reviewed the police department monthly activity report. He stated all officers received NARCAN kits and training and the kits were paid for by the Garden Ridge Citizens Police Academy Alumni Association. He spoke regarding the progress made on school traffic, stating an Officer was on Municipal Parkway for two weeks and resolved the issue of school buses running the stop sign. Chief Eberhardt reminded everyone of Pizza with the Police on May 7th at 6pm in the City Council Chambers.

The City Council thanked Chief Eberhardt for his continued hard work.

c) Public Works Monthly Activity Report

- Street and right-of-way maintenance, drainage facility and easement maintenance, City facility maintenance, Animal Services (domestic and wild), Oak Wilt, Public Works Projects, and City parking lots.

Steven Steinmetz, Public Works Director, reviewed the public works monthly activity report. He stated TCEQ conducted a stormwater site assessment on April 25th where they evaluate measurable goals and go over monthly reports regarding construction and public outreach. He stated this is conducted every five (5) years and he expects to receive their exit interview assessment later this month. He also spoke regarding trees in Paul Davis Park and the City has four (4) dogs as well as six (6) cats that are ready for adoption.

Councilmember Bower thanked Steven Steinmetz, Public Works Director, for responding to and quickly resolving parking situations and concerns at Paul Davis Park.

d) Water Department Monthly Activity Report

- Water pumping/usage from City wells, water system infrastructure maintenance, repairs and/or projects, Water and/or Drought Management (current Watering Stage).

Jacob Parsons, Water Manager, reviewed the water department monthly activity report. He spoke regarding conducting a water system audit, the SCADA system, and Field Force Management.

Mayor Thompson thanked Jacob Parsons, Water Manager, for diving into everything to ensure the City has safe and good quality water, adding he has a great team in the Water Department.

e) Library Monthly Activity Report

- Upcoming events and Teen Movie Night.

Linda Crosland, Librarian, introduced the Teen Advisory Board President Aurora Fox and Vice-President Michael Ruffalo. Miss Fox and Mr. Ruffalo spoke about what the Teen Advisory Board is, requirements to be on the board, and upcoming events they are planning.

The City Council thanked the members of the Teen Advisory Board for coming to speak, adding they did a great job and have many great ideas. Mayor Thompson stated they did a great job in detailing their expectations, and he spoke regarding the Teen Advisory Board using the City Council Chambers to host their movie nights.

13. City Engineer Projects Status Reports

a) CIP Project for 2015

1. Update on Warranty Items

b) FM 2252 Sewer and Water Project

c) Drainage:

1. Creekview

2. Bindseil Lane

3. Sumac Circle

d) City of Selma Water CCN

Dan Mummert, City Engineer, reviewed the Trihydro Corporation – Engineering Report for May 2019 and addressed questions from Councilmembers.

14. City Commission and Committee Reports/Recommendations/Possible Actions

a) Planning and Zoning Commission Recommendations and Possible Action:

- 1. Consider a petition by Wilfredo Aguayo for the installation of an amateur communications antenna. Antenna will be a self-support crank up tower with maximum extension height of 33 feet supporting a 10-foot mast for total height of 40 to 45 feet and 12 feet in height when fully retracted. Antenna will be located on a concrete footing approximately 7 feet behind the rear plane of the residence at 20740 Timber Rose. Antenna tower will be further located 150 feet from street, over 100 feet from side property lines and 75 feet from rear property line. The property location is further described as Garden Ridge Estates 4, Block 1, Lot 36 and 37 and A-581 Sur 441 ½, Garden Ridge, Comal County, Texas, on property zoned Single Family Dwelling (R) District.**

1.1. Receive recommendation from Planning and Zoning Commission.

Chair Dr. Miller stated the Planning and Zoning Commission reviewed the information, held a public hearing, and unanimously voted to recommend to City Council denial of the petition as submitted.

1.2. Hold a public hearing to receive comments for or against the petition.

Mayor Thompson opened the public hearing at 7:42 p.m.

Four (4) citizens spoke during the public hearing and provided comments regarding the petition (see attached).

Mayor Thompson closed the public hearing at 7:55 p.m. and thanked the citizens for providing their valued input, experiences, and evidence to allow City Council the ability to make a more informed decision.

1.3. Take action on the petition.

Motion: A motion was made by Councilmember Bower, seconded by Councilmember Lantzy, to accept the Planning and Zoning Commission's recommendation to deny the petition by Wilfredo Aguayo for the installation of an amateur communications antenna. During the discussion of the motion, the City Council discussed the number of structures, interference concerns, and bandwidth options. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

2. Receive monthly activity update as applicable.

Chair Dr. Miller provided City Council with an update on the topics discussed at the Commission's April meetings. He spoke regarding the Northeast Bible Church master plan and special use permit, the live streaming of Commission meetings, and the TxDOT expansion plan as it pertains to the City of Garden Ridge.

b) Quarry Commission Recommendations and Possible Action:

- 1. Receive recommendation to waive the requirement in Ordinance No. 210-022018, Section V. Termination A. Three (3) consecutive absences or four (4) total absences in a twelve (12) month period for Commissioner DuBois.**

Vice-Chair Mudge stated Commissioner DuBois exceeded the absence limits stated in Ordinance No. 210-022018 and the Quarry Commission voted unanimously to recommend to City Council that his termination be waived due to providing advance notice of all absences, expressing desire to continue serving on the Commission, and his wealth of knowledge that is beneficial to the Commission and hard to find.

1.1. Take action on recommendation.

Motion: A motion was made by Councilmember Lantzy, seconded by Mayor Pro-Tem McCaw, to accept the Quarry Commission's recommendation and waive the termination of Commissioner DuBois. During the discussion of the motion, Councilmember Lantzy stated Commissioner DuBois provided the Chair and the City Secretary with notice in advance of these absences. The City Council voted four (4) for and one (1) opposed (Councilmember Bower). The motion passed by a vote of 4-1.

2. Receive monthly activity update as applicable.

The Quarry Commission did not meet in April.

c) Water Commission Recommendations and Possible Action:

1. Receive recommendation to accept the resignation of Commissioner Pitzen.

Chair Heier stated the Water Commission voted unanimously to formally accept Commissioner Pitzen's resignation due to health reasons and to recommend to City Council that the resignation be accepted.

1.1. Take action on recommendation.

Motion: A motion was made by Councilmember Bower, seconded by Councilmember Erickson, to accept the resignation of Commissioner Pitzen with regrets to his health issues. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously.

Mayor Thompson and City Council thanked Ray Pitzen for his service on the Water Commission, adding they will continue praying for him.

2. Receive monthly activity report as applicable.

Chair Heier commended Brad Olivarri, Deputy Water Manager, for serving as Interim Water Manager and welcomed Jacob Parsons, Water Manager. Chair Heier provided City Council with an update on the topics discussed at the Commission's April meeting. He spoke regarding working with the Water Department on improving the monthly reports, water leases, conducting research in order to make informed decisions regarding water policies, and future education sessions.

d) Wildlife Management Advisory Commission Recommendations and Possible Action:

1. Receive monthly activity update as applicable.

Chair Segovia spoke regarding a conference call she had with the Deputy Director of the Humane Society where they assured her they have never managed deer herds for anyone nor have they offered this to Garden Ridge. She reported the Humane Society stated Garden Ridge is doing an excellent job with efforts to manage the deer herd while also creating a comprehensive wildlife management plan, and the Humane Society would like to write an article about the City of Garden Ridge. Chair Segovia reported that the City of Garden Ridge is on the list for research testing and the Commission is working on finalizing the wildlife management plan. She spoke regarding receiving conflicting information about CWD testing procedures so she will be speaking to the individual in charge of the CWD testing program for Texas to receive clarification then report back to the City Council.

The City Council thanked Chair Segovia for clarifying information regarding the Humane Society. Councilmember Erickson thanked Chair Segovia and the Wildlife Management Advisory Commission for their continued hard work and how far they have come in less than two (2) years.

Mayor Thompson thanked Chair Segovia for doing the City a tremendous service through her insistence on researching to find and provide facts backed by factual evidence. He also thanked Chair Segovia for her leadership and management of Commissioners, adding he regrets that he voted on the reappointment of a Commissioner that earlier stated wild accusations while resigning and then walked out.

e) Garden Ridge Parks Committee:

1. Status of new park areas.

Shelby Trial, Parks Committee Chair, spoke regarding the Regency Oaks pocket park equipment, Harvey B. Bell pocket park establishment and implementation on May 25th, and getting scouts involved with the construction and maintenance of the Fairview Circle pocket park.

Mayor Thompson thanked the Parks Committee for developing these pocket parks and he encouraged any companies, families, or individuals to sponsor equipment and support the development of these parks.

2. Receive monthly activity update as applicable.

Shelby Trial, Parks Committee Chair, spoke regarding additions to Paul Davis Park, including a third pavilion, four (4) picnic tables, three (3) benches, and a couple of trash receptacles. He also spoke regarding removing unhealthy crepe myrtles then exploring tree options to fill in those areas.

f) Volunteer Garden Ridge!

1. Receive monthly activity update as applicable.

Shelby Trial, *Volunteer Garden Ridge!*, reported 244 hours for the month of April.

Mayor Thompson stated the Garden Ridge Women's Club recently donated \$300 to Animal Services and \$750 to the Garden Ridge Library and thanked them for their support and generous donations to the City.

15. Updates

a) City Administrator Report on Projects.

1. Update on CIP projects.

Nancy Cain, City Administrator, stated City Council was provided with an updated spreadsheet. She spoke regarding the current estimate totals that estimate where the City stands with these restricted funds, adding the goal is to have these projects completed by October 1, 2019. Steven Steinmetz, Public Works Director, spoke regarding the various projects and answered questions from Councilmembers.

2. Update on Paul Davis Park fencing.

Nancy Cain, City Administrator, spoke regarding the completed survey of Paul Davis Park to obtain accurate information on the total linear feet for fencing. She stated this information will be provided to the vendors that originally submitted proposals and she expects to have a negotiated contract prior to the June City Council meeting.

3. Update on Plumbing Inspection Services for the City of Garden Ridge.

Nancy Cain, City Administrator, spoke regarding signing a contract with BB Inspection Services who will provide plumbing inspection services and back-up building inspection services starting May 21st since the current plumbing inspection services contract expires on May 20th.

b) Mayor's Projects.

1. Communication Report.

Mayor Thompson spoke regarding various continued communication efforts including daily reminders and messages on the City sign on FM 2252, the monthly Grapevine, and the City website. He reminded everyone of the importance of voting in order to maintain a high percentage for the City of Garden Ridge.

2. Citizen Contact Report.

Mayor Thompson spoke regarding citizens making the City aware of a pavement issue in a cul-de-sac. He stated after communications with Republic, they have agreed to not turn there in order to avoid digging into the pavement. He thanked the citizens for bringing this issue to the City's attention.

Mayor Thompson provided City Council with an update that about a dozen citizens have requested that the City put out a written letter to publicly dispute the "*Concerned Citizens of Garden Ridge*" letter that was mailed to residents.

3. City Facility Update.

3.1. Audio/Visual Upgrades and Streaming.

Mayor Thompson stated the meeting is currently being live-streamed; however, this is still a work in progress. He spoke regarding the agenda format being changed in order to accommodate indexing the agenda to the video once the software portal is complete.

Marisa Spencer, City Secretary, stated that as of a few days ago the encoder was installed and setup which allowed for the capability of live streaming; however, the software portal is still a work in progress, so the indexing aspect is still a work in progress.

4. Ordinance Revision Process.

Mayor Thompson stated the Zoning and Subdivision Ordinance is currently in the revision process by the Planning and Zoning Commission, Freese and Nichols, Inc., and City staff. He also stated the Water Commission is discussing revisions to the Water Ordinance.

5. TxDOT Coordination.

Mayor Thompson stated he does not have new updates at this time, but this is still pending.

6. GRES Traffic Flow and FM 3009 Safety.

Mayor Thompson stated he does not have new updates at this time, but this is still pending.

c) City Council Projects.

1. Design on Water Tanks at Well Site 9 and 10 (McCaw).

Mayor Pro-Tem McCaw stated he is still working on this item and does not have an update at this time.

2. Design on Retainer Wall of City Hall (McCaw).

Mayor Pro-Tem McCaw stated he is still working on this item and does not have an update at this time.

3. Adopt a highway program for “Families of Garden Ridge” along FM 2252 (Erickson).

Councilmember Erickson reported there were 14 volunteers, 42 hours of volunteer time, that helped clean up FM 2252 from FM 3009 to Weber Autowerks on Saturday, April 6th. He thanked the volunteers for their time and hard work.

4. City of Garden Ridge Farmers’ Market (Erickson).

Councilmember Erickson spoke regarding the Garden Ridge Farmers’ Market scheduled for Saturday, May 11, from 9am-1pm. He thanked Utility Clerk Kat Balbi, City Secretary Marisa Spencer, and City Administrator Nancy Cain for making his idea happen, adding that citizen turnout is essential in making this event successful.

Mayor Thompson thanked Kat Balbi, Utility Clerk, for her hard work, time, and continued efforts in organizing this event.

5. Councilmember Closing Statement (Erickson).

Councilmember Erickson deferred this item to the May 14th City Council special meeting.

6. Speeding in Garden Ridge (Lantzy).

Councilmember Lantzy spoke regarding many citizens raising concerns about speeding in subdivisions with the main concern being on Timber Rose. He asked Chief Eberhardt if the City is able to add more speed limit signs and/or more stop signs. Chief Eberhardt stated the City Council can add both speed limit signs and stop signs since it is a City-owned road. Mayor Thompson suggested these options be further explored to ensure the safety of our residents.

7. Update on Vulcan Construction Materials, LLC Project (Arvidson).

Councilmember Arvidson spoke regarding the attached document that was provided to the City Secretary to be distributed to City Council at the meeting. Mayor Thompson asked Councilmembers to review the document before the next meeting to allow for discussion and possible endorsement.

16. Discussion of Future Agenda Items

Councilmember Lantzy requested to discuss the number of signs in the City of Garden Ridge.

Councilmember Bower requested to reiterate cats and dogs running free on a future agenda.

17. Citizen Comment Period – limited to 20 minutes total

Bob Crawford, 9507 Gloxinia Drive, spoke regarding amateur communication antennas and towers and speeding on FM3009 in the City of Garden Ridge.

Ken Kneupper, 8891 Schoenthal Road, spoke regarding CISD school board meetings, the intent of the CISD school board to name the new high school near Garden Ridge as Davenport High School, and growth in Comal County.

18. Reports and Comments from Mayor and City Councilmembers

The Mayor and/or City Councilmembers may comment, make general announcements, and/or provide progress reports on events, activities and/or committees/board meetings concerning the following:

Alamo Area Metropolitan Planning Organization
Boy Scouts and/or Girl Scouts
City of Garden Ridge sponsored events and outreach efforts
Comal ISD/Garden Ridge Elementary
Counties (Bexar, Comal and Guadalupe)
Garden Ridge Lions Club
Garden Ridge Citizen Police Academy Alumni Association/Citizen Patrol
Garden Ridge Women's Club
Greater Bexar County Council of Cities
Joint Base Land Use Study-Randolph
Northeast Partnership

Mayor Pro-Tem McCaw suggested to continue working with the Humane Society as an outreach effort.

19. Executive Session

The City Council will recess its open meeting and reconvene in Executive Session:

- a) Pursuant to Texas Government Code Sections 551.076 and 551.089 – Security Devices/Audits
1. To deliberate security assessment and security audit report for city buildings/property and related items.

Mayor Thompson announced the City Council will recess at 9:23 p.m. and reconvene into Executive Session at 9:28 p.m., in accordance with Texas Government Code Sections 551.076 and 551.089, to deliberate security devices and security audits on the one (1) item stated above.

Mayor Thompson adjourned the Executive Session and reconvened back into Regular Session at 10:02 p.m.

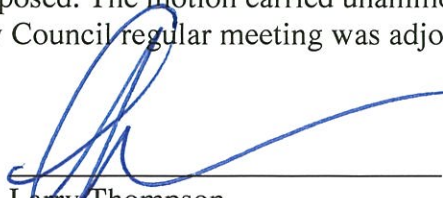
20. Business Items

The City Council will reconvene into Regular Session upon conclusion of the Executive Session and may recall any item posted for Executive Session for action, as necessary.

Mayor Thompson asked if any Councilmembers wanted to recall the item posted for Executive Session to allow for any action they wanted to take. Receiving no responses from Councilmembers to recall the item posted, Mayor Thompson closed Business Items.

21. Adjournment

Motion: A motion was made by Councilmember Erickson, seconded by Mayor Pro-Tem McCaw, to adjourn. The City Council voted five (5) for and none (0) opposed. The motion carried unanimously. There being no further business, the Wednesday, May 1, 2019, City Council regular meeting was adjourned at 10:03 p.m. by Mayor Thompson.



Larry Thompson
Mayor

ATTEST



Marisa Spencer
City Secretary

①

**SIGN IN TO SPEAK AT THE MAY 1, 2019
CITY COUNCIL REGULAR MEETING
CITIZEN COMMENT PERIOD**

Rules for Citizens' Participation:

The City Council welcomes citizen participation and comments at all City Council Meetings. The City Council offers citizens the opportunity to address them by signing up to speak prior to the meeting. If you speak, you should follow these guidelines:

- a) Respect and courtesy:
 - i. Direct your comments to the entire City Council, not to an individual member, nor to the audience.
 - ii. Show the City Council the same respect that you would like to be shown.
 - iii. End your speaking at the time allotted below.
- b) Speaking:
 - i. First citizen comment period
 1. You are required to sign up to speak.
 2. You are limited to one 3-minute period.
 - ii. Business item period
 1. You are required to sign up to speak.
 2. You are limited to one 3-minute period.
 - iii. Second citizen comment period
 1. You are not required to sign up.
 2. You are limited to one 2-minute period.
 - iv. State your name and address before your comments begin.
 - v. You are only allowed to speak once per topic, unless also speaking during a posted Public Hearing.

*NOTE: The Texas Open Meetings Act permits a member of the public or a member of the governmental body to raise a subject that has not been included in the notice for the meeting. However, any discussion of the subject **must be limited** to a proposal to place the subject on the agenda for a future meeting and any response to a question posed to the City Council is limited to either a statement of specific factual information or a recitation of existing policy. TEX. GOV'T CODE § 551.042*

	NAME	ADDRESS	SUBJECT
1.	③ Dawn Hatch	8377 Twisted Oaks	I will go last please if others sign up
2.			
3.			
4.	④ Martha Stipp	21007 Cedar Branch	thanks to E. Erickson
5.			
6.	② Tony Overman	18955 FM 2752	Clarification
7.			
8.			
9.			
10.			

CITY ITEM



City of Garden Ridge

"A way of life, not just a place to live"

April 24, 2019

To: Mayor Thompson and City Council

From: City Administrator Cain

Re: Investigation Report of Citizen Complaint from Anthony Frasco, received March 25, 2019

On March 25, 2019 a Citizen Complaint was received from Anthony Frasco alleging that Garden Ridge Police Chief Ron Eberhardt was handing out electioneering cards, soliciting votes and money for Mayor Larry Thompson while in uniform and on duty. Mr. Frasco alleges this occurred on March 13, 2019 at Coffee With A Cop which was being held at First United Bank within the City. The only allegations the City has authority to address in the complaint were those involving Chief Eberhardt.

The Citizen Complaint triggered an investigation in accordance with the City of the Garden Ridge Personnel Policy Manual, Section 8, Investigations, for a possible violation by Chief Eberhardt of Section 5.11. Political Activities, of the aforementioned policy.

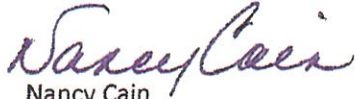
An Investigation Committee comprised of Councilmember Robb Erickson, Scott Tschirhart and City Administrator Nancy Cain was formed. Due to Mr. Tschirhart's experience in conducting investigations being an attorney, was Chair of the Committee and led the investigation. Mr. Tschirhart conducted interviews with Chief Eberhardt and Ken Knuepper. Mr. Frasco was unresponsive to two attempts by Mr. Tschirhart for an interview. David Ringle did respond to Mr. Tschirhart's first attempt to interview Mr. Frasco indicating that he spoke for Mr. Frasco. Mr. Ringle indicated there had been criminal charges filed and insisted that no interview would be conducted without the presence of the Comal County Sheriff's Office. An inquiry was made of the Comal County Sheriff's Office concerning alleged criminal charges being filed in relation to Chief Eberhardt and it was indicated that no such charges had been filed.

Upon conclusion of the investigation performed by Mr. Tschirhart, he provided the Investigation Committee with the findings of his investigation into the allegations against Chief Eberhardt. The findings of Mr. Tschirhart's investigation were that the allegations against Chief Eberhardt were unfounded. Mr. Tschirhart's investigation document is attached as part of this report.

The Investigation Committee was provided the investigation findings of Mr. Tschirhart, and after review agree that the allegations against Chief Eberhardt are unfounded.

This Investigation Report concludes that the allegations against Police Chief Ron Eberhardt as alleged in the Citizen Complaint from Anthony Frasco received March 25, 2019, are unfounded. This report and all supporting documents will be made a part of Chief Eberhardt's personnel file.

The expense incurred by the City of Garden Ridge to conduct the investigation was \$1,473.50.



Nancy Cain
City Administrator



Denton Navarro Rocha Bernal & Zech, P.C.
attorneys & counselors at law • rampagelaw.com

San Antonio | Austin | Rio Grande Valley
2500 W. William Cannon, Suite 609 Austin, Texas 78745-5320
V 512-279-6431 | F 512-279-6119

Memo

**PRIVILEGED & CONFIDENTIAL
ATTORNEY/CLIENT WORK PRODUCT
NOT A PUBLIC RECORD**

To: City of Garden Ridge City Council

From: DENTON NAVARRO ROCHA BERNAL & ZECH, PC

Issued by: Scott M. Tschirhart

Date: April 9, 2019

Re: Investigation of allegations of certain misconduct by Police Chief Ron Eberhardt

Background:

This is an investigation of a claim that was emailed to the City by Anthony Frasco, against Garden Ridge Police Chief Ron Eberhardt. Mr. Frasco alleges that on March 13, 2019 at a public function called *Coffee with a Cop*, Chief Eberhardt was present when a "Civil Patrol" volunteer, identified as Ken Kneuper was handing out cards for Mayor Larry Thompson. A true and correct copy of the *Complaint by Anthony Frasco* is attached as Exhibit "A."

If true, such actions could be in violation of the City of Garden Ridge Personnel Policy Manual, Section 5.11, Political Activities and these allegations warranted an investigation pursuant to Section 8 of the Policy Manual.

The undersigned was tasked with conducting an investigation and providing a report to an appointed committee. The parameters of this investigation were to determine whether there was a violation of Section 5.11 at the *Coffee with a Cop* meeting on March 13, 2019.

City Policies:

The City's Personnel Policy Manual contains the following policy:

5.11. POLITICAL ACTIVITIES

5.11.1. General. It is the policy of the City to allow all Employees the freedom to participate in governmental activities including political activities if such participation is done outside employment hours and does not result in a conflict of interest with the Employee's job duties.

5.11.2. Political Activity General. No Employee will use their position or influence in any way for or against a candidate for public office.

During working hours, an Employee will not circulate petitions or campaign literature on behalf of candidates for elective office or be in any way involved in soliciting and subscription, contribution, or political service on behalf of any such candidate.

Employees shall not in any manner contribute money, labor, time, or other items of value to any person for election purposes during working hours.

This policy will be interpreted and applied with due regard for an Employee's First Amendment and associated rights, as determined by applicable legal standards.

Methodology:

On April 2, 2019, the undersigned met with Assistant City Attorney Cynthia Trevino to discuss the policies and all documentation in the City's possession. The undersigned reviewed the complaint, along with other communications that indicate that Mr. Frasco may have made the complaint in concert with other persons who are currently running for political office in the City. The undersigned also listened to a tape recording where Mr. Frasco was discussing his complaint with City Administrator Cain. Frasco made it clear that the Chief was not handing out anything and it appeared that Frasco may not have actually witnessed anyone handing out any cards. His responses were conclusory and not consistent with eyewitness testimony.

That same day (April 2) the undersigned sent an email to Mr. Frasco requesting an in-person interview prior to meeting with any other witnesses. A true and correct copy of that email is attached as Exhibit B. Mr. Frasco did not respond.

However, later in the afternoon of April 2, the undersigned received a call from a man who identified himself as Mr. David Ringle. Mr. Ringle seemed agitated and demanded that any interview with Mr. Frasco must be conducted in the presence of the Comal County Sheriff's Department. The undersigned asked Mr. Ringle if he was a lawyer representing Mr. Frasco, and he stated that he was not, but that he spoke for Mr. Frasco and again insisted that no interview be conducted outside the presence of the Sheriff's Department. Mr. Ringle explained that he had filed a criminal complaint and that the Sheriff's Department was investigating it. The undersigned explained that his investigation involved City personnel policies only and that he had no interest in any criminal investigation. Mr. Ringle seemed to be satisfied with the explanation and the undersigned requested that Mr. Ringle speak with Mr. Frasco and encourage him to respond to the undersigned's email request. Mr. Frasco did not respond.

On April 4, 2019, the undersigned sent another email to Mr. Frasco. A true and correct copy of that email is attached as Exhibit C. In the email, the undersigned explained the purpose of the investigation and recounted the call from Mr. Ringle. Mr. Frasco did not respond.

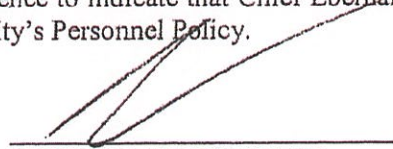
On April 5, 2019, the undersigned interviewed Chief Eberhardt. Chief Eberhardt explained that the purpose of the *Coffee with a Cop* meetings was to discuss issues raised by citizens and to give them access to the Chief so that their police-related concerns could be addressed. Chief Eberhardt recalled that a traffic problem raised by one of the residents was the major matter of discussion and that he did not see any campaign literature being handed out. He further stated that he had never seen anyone hand out campaign literature at any of these events.

Later on April 5, 2019, the undersigned interviewed Kenneth Kneuper. Mr. Kneuper stated that *Coffee with a Cop* was an ongoing program and the Citizens on Patrol volunteers would pass out coffee cups to new attendees and the Bank would provide coffee. Mr. Kneuper confirmed that a traffic issue was the subject of discussion at the meeting. Mr. Kneuper states that these meetings were not political, and the Chief had given clear instructions that politics would not be discussed at these meetings. Mr. Kneuper states that he has no campaign literature or cards to support the current Mayor, and that he did not pass anything like that out to anyone at the meeting. Mr. Kneuper confirmed that he had never seen any campaign literature passed out at such meetings and that prior to the meeting on March 13, Chief Eberhardt repeated his earlier admonition that politics would not be discussed at the meeting.

Upon further questioning, Mr. Kneuper recounted the people who attended the meeting and stated that Mr. Frasco was not there.

Findings:

Taking into account Mr. Frasco's complaint, his recorded statement, his refusal to cooperate with this investigation, and the direct answers given by Chief Eberhardt and Mr. Kneuper, the undersigned can only conclude that the allegations against Chief Eberhardt are in all matters UNFOUNDED. There is no credible evidence to indicate that Chief Eberhardt engaged in conduct that would violate Section 5.11 of the City's Personnel Policy.


SCOTT M. TSCHIRHART

COMPLAINT BY ANTHONY FRASCO

8802 Wild WindPark, Garden Ridge. TX 78266

On Wednesday. March 13, 2019 COFFEE WITH A COP was held at First United Bank on 19099 FM 2252, Garden Ridge, Texas.

The Chief of Police, Ron Eberhardt, was on duty and in uniform acting in concert with Civil Patrol volunteer Kenneth Kneuper, Ken Kneuper was in the bank giving out electioneering cards for Mayor Larry Thompson. A copy of the card is included. The card did not have "paid for" on it.

Please note that the bank was never asked for permission to campaign. They only knew about "Coffee with a Cop". The First United Bank manager or the the bank president knew nothing about the campaigning taking inside the bank.

This matter is a direct violation being the Chief was on duty and being paid by the town of Garden Ridge. These two men acted in concert to solicit votes and money for Mayor Thompson.

We must and cannot permit this illegal practice to be condoned and action must be taken immediately on this matter.

copies to:

Nancy Cain

Mayor Larry Thompson

All Council Members

Ethics Commission, Austin, Texas

Exhibit "A"

VOTE MAYOR LARRY

Early voting: April 22nd - 30th

Election Day: May 4th, 7am to 7pm

PLEASE DONATE AT  **First United**
SPENDING LIKE A PRO

Checks payable to: Larry Thompson - Campaign Fund

*Remaining campaign funds will be donated to the
"Friends of the Garden Ridge Library" -- grrlibraryfriends.com*

VOTE MAYOR LARRY

HELP SECURE OUR FUTURE BY

- Make a point to ask your neighbors to vote for Larry
- Make a donation to Larry's campaign
- Pledge to get at least 6 votes for Larry
- Send addresses of your committed voters and/or
- Request lawn signs through:

VoteMayorLarry@gmail.com

This is OUR chance to work FOR Larry!

From: Scott Tschirhart
To:
Cc: [Charlie Zech](#); [Cynthia Trevino](#); [Hope Avila](#)
Subject: Investigation of allegations of City of Garden Ridge Personnel Policy issues Re: Chief Eberhardt
Date: Tuesday, April 02, 2019 12:27:02 PM

Mr. Frasco,

I have been tasked with investigating the allegations in your complaint of March 25, 2019 regarding the conduct of Chief Eberhardt at the March 13, 2019 Coffee With a Cop event.

My contact information is listed below and I would very much like to interview you before I interview any of the other witnesses who were present so that I can understand your perspective and thereby conduct a thorough investigation of these matters.

Please call me at the office number below, or if you have the opportunity to reach out today, you may call my cell phone at [REDACTED]. I always prefer an in-person interview if possible and we can either schedule a meeting or we can discuss these matters over the phone. I do not anticipate that I will need to take up much of your time.

Thank you in advance for your attention to this matter.

Best regards,

Scott M. Tschirhart



A Professional Corporation
2500 W. William Cannon Drive, Suite 609
Austin, Texas 78745
Phone: (512) 279-6431
Fax: (512) 279-6438

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Exhibit "B"

From: Scott Tschirhart
To:
Cc: Charlie Zech; Cynthia Trevino; Hope Avila
Subject: RE: Investigation of allegations of City of Garden Ridge Personnel Policy Issues Re: Chief Eberhardt
Date: Thursday, April 04, 2019 10:30:20 AM

Good morning Mr. Frasco,

Following up on my email of Tuesday, April 2, 2019 (see below) I would like to meet with you to discuss your allegations.

On Tuesday afternoon, I was contacted by a person who identified himself as David Ringle. Mr. Ringle told me that he was not your attorney, but he claimed that he was speaking on your behalf.

Mr. Ringle insisted that any interview must be made in the presence of the Sheriff's Department. He told me that he had made a criminal complaint to the Sheriff's Department. I told Mr. Ringle and I am informing you that I have no interest in any criminal investigation. My interest is to determine whether any City policies might be implicated. To that end, I do not believe that involving the Sheriff's Department is necessary or would be helpful to my investigation.

Please let me know when I might be able to discuss your complaint. If you do not wish to speak with me, please respond to that effect by return email and I will not bother you further.

Best regards,

Scott M. Tschirhart



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From: Scott
Sent: Tuesday, April 02, 2019 12:27 PM

Exhibit "C"

To:

Cc: Charlie Zech <

Cynthia Trevino

Hope Avila

Subject: Investigation of allegations of City of Garden Ridge Personnel Policy issues Re: Chief Eberhardt

Mr. Frasco,

I have been tasked with investigating the allegations in your complaint of March 25, 2019 regarding the conduct of Chief Eberhardt at the March 13, 2019 Coffee With a Cop event.

My contact information is listed below and I would very much like to interview you before I interview any of the other witnesses who were present so that I can understand your perspective and thereby conduct a thorough investigation of these matters.

Please call me at the office number below, or if you have the opportunity to reach out today, you may call my cell phone at . I always prefer an in-person interview if possible and we can either schedule a meeting or we can discuss these matters over the phone. I do not anticipate that I will need to take up much of your time.

Thank you in advance for your attention to this matter

Best regards,

Scott M. Tschirhart



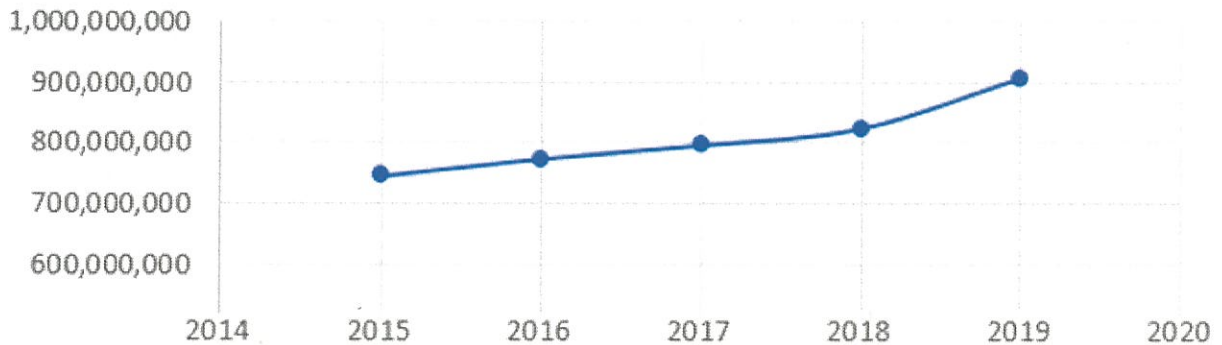
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Exhibit "C"

City Garden Ridge Value Growth



Description	2015	2016	2017	2018	2019
City of Garden Ridge	746,170,385	774,057,594	796,394,301	823,934,051	906,823,078

April 1 –	Notices of Appraised Value delivered to Comal County properties (80,000 out of 99,111 went out this year)
April 1-July 10 –	Owners may meet informally with District staff to review their property. The District will also send owners that file a protest a letter with the date for an informal meeting with an appraiser, owners may opt out and go straight to the ARB hearing if so desired. Hearing dates are normally set up for at least two weeks after informal meeting date. It is recommend that owners bring in any information that they feel affects their property value (i.e.: I have a leaky roof: bring in photos, estimates of repairs, etc. My value is too high compared to ...: bring in closing statement, sales data of similar homes, etc.) Owners may also request a copy of the information that the District intends to use at the hearing (open records charge apply) to have a better understanding of how the District determined their value.
May 15 –	Normal protest deadline or 30 days after your noticed was delivered to you. Must be postmarked no later than May 15, District also has a "Mail Slot" drop that tax payers can use. PLEASE NOTE: If you file a late protest, it doesn't mean you cannot protest. You may still file a protest but must also include a letter showing 'good cause' for the late protest. (The 'good cause' letter part is important because the law requires the ARB to make a decision based on the what the tax payer submits. The ARB decides what 'good cause' is, not the District.)

May 20 –	First day of Appraisal Review Board Hearings. Hearings are normally held Monday through Thursday from 8:30am to 4:30pm (with a break for lunch). We would recommend reviewing the "Protest Information" under "Information" on the District's website (www.comalad.org) and viewing the video "How to Present Your Case ..." that can be found on our website or the Texas Comptroller's website (https://comptroller.texas.gov/taxes/property-tax/video/). The ARB hearings are open to the public and tax payers are encouraged to attend a hearing before their hearing is scheduled on the ARB docket. Not sure that you can make your hearing date/time? Tax payers are not required to protest in person. The ARB may also hear protest by affidavit or by telephonic conference call with an affidavit (conference call must be requested 10 days prior to your hearing date). Property owners are also allowed to make one request to reschedule before the date of their hearing without cause. All subsequent request must show 'good cause' to the ARB. Can't make it during normal working hours? The ARB does set up either an evening or weekend hearing date. Currently the ARB has only the June 24 date set for evening hearings. Missed your hearing date/time? A tax payer who fails to appear at the hearing is entitled to a new hearing if they file, not later than the 4th business day after the date the hearing occurred, a written statement with the ARB showing good cause for the failure to appear and requesting a new hearing.
Not later than July 20 –	ARB certifies appraisal records by order to the District. The District now prepares certified values and rolls to distribution to the taxing jurisdictions, not later than July 25. In the past two years, the ARB certified the records on July 13 and July 17. It is recommended that tax payers not wait until the last minute to file a protest. It has been our experience that it is much easier to withdraw a protest that was filed early than to initiate a protest after the deadline date.
July 20 (or after ARB certification)- January 31, 2020 –	Owners may continue to file protest however they must now file under as a TPTC Sec 25.25 protest. Sec 25.25 protest are more limited in nature and are for excessive value protest or clerical errors.

MAY 1, 2019, CITY COUNCIL REGULAR MEETING

PUBLIC HEARING

PLEASE WRITE YOUR NAME AND ADDRESS.

1. Teresa Jetter 20839 FM 3009
2. TOM NELSON 9477 BLVDALL DR
3. Juan Trevino 20810 Timber Rose
4. Bob Crawford 9507 GLOXINIA DRIVE

5.

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By: Biedermann

H.B. No. 3798

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of and permit requirements for certain
3 facilities that extract, produce, or process aggregates and of
4 related facilities by the Texas Commission on Environmental Quality
5 and the Railroad Commission of Texas; providing administrative
6 penalties and other civil remedies; creating criminal offenses.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 382.0516, Health and Safety Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) In addition to the notice required by Subsection (a),
11 for an application that relates to a facility that is or is proposed
12 to be part of an aggregate production operation required to be
13 registered under Section 28A.051, Water Code, on receiving the
14 application, the commission shall send notice of the application to
15 each school district in which the operation is located and any other
16 school district located less than five miles from the site of the
17 proposed facility.

18 SECTION 2. Section 382.056(r), Health and Safety Code, is
19 amended to read as follows:

20 (r) This section does not apply to:

21 (1) the relocation or change of location of a portable
22 facility to a site where a portable facility has been located at the
23 proposed site at any time during the previous two years;

24 (2) a facility located temporarily in the

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1 right-of-way, or contiguous to the right-of-way, of a public works
2 project; or

3 (3) a facility described by Section 382.065(c), unless
4 that facility is in a county with a population of one [~~3-3~~] million
5 or more or in a county adjacent to such a county.

6 SECTION 3. Sections 382.065(a), (b), and (d), Health and
7 Safety Code, are amended to read as follows:

8 (a) The commission by rule shall prohibit the operation of a
9 concrete crushing facility within one mile [~~440 yards~~] of a
10 building in use as a single or multifamily residence, school, or
11 place of worship at the time the application for a permit to operate
12 the facility at a site near the residence, school, or place of
13 worship is filed with the commission. The measurement of distance
14 for purposes of this subsection shall be taken from the point on the
15 concrete crushing facility that is nearest to the residence,
16 school, or place of worship toward the point on the residence,
17 school, or place of worship that is nearest the concrete crushing
18 facility.

19 (b) Subsection (a) does not apply to a concrete crushing
20 facility:

21 (1) at a location for which commission authorization
22 for the operation of a concrete crushing facility was in effect on
23 September 1, 2001;

24 (2) at a location that satisfies the distance
25 requirements of Subsection (a) at the time the application for the
26 initial authorization for the operation of that facility at that
27 location is filed with the commission, provided that the

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1 authorization is granted and maintained, regardless of whether a
2 single or multifamily residence, school, or place of worship is
3 subsequently built or put to use within one mile [~~440 yards~~] of the
4 facility; or

5 (3) that:

6 (A) uses a concrete crusher:

7 (i) in the manufacture of products that
8 contain recycled materials; and

9 (ii) that is located in an enclosed
10 building; and

11 (B) is located:

12 (i) within 25 miles of an international
13 border; and

14 (ii) in a municipality with a population of
15 not less than 6,100 but not more than 20,000.

16 (d) Notwithstanding Subsection (c), Subsection (a) applies
17 to a concrete crushing facility in a county with a population of one
18 [~~3.3~~] million or more or in a county adjacent to such a county.

19 SECTION 4. Subchapter C, Chapter 382, Health and Safety
20 Code, is amended by adding Section 382.069 to read as follows:

21 Sec. 382.069. AGGREGATE PRODUCTION OPERATIONS. (a) This
22 section applies only to a permit for a facility that is or is
23 proposed to be part of an aggregate production operation required
24 to be registered under Section 28A.051, Water Code.

25 (b) The commission may adopt a standard audit and air
26 sampling program for permit holders.

27 (c) The commission shall adopt a policy to grant a permit

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1 holder who is not subject to Chapter 1101 the privileges
2 established in Chapter 1101 if the permit holder chooses to comply
3 with the requirements of Chapter 1101 for the facility for which the
4 permit is issued.

5 (d) The commission may not grant a permit application that
6 relates to a proposed facility under this chapter unless the
7 applicant provides to the commission documentation of any required
8 permit issued to the applicant by:

9 (1) each groundwater conservation district in which
10 the proposed facility will be located; and

11 (2) the Railroad Commission of Texas under Chapter
12 135, Natural Resources Code.

13 SECTION 5. Title 4, Natural Resources Code, is amended by
14 adding Chapter 135 to read as follows:

15 CHAPTER 135. AGGREGATE PRODUCTION OPERATIONS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 135.0001. DEFINITIONS. In this chapter:

18 (1) "Affected land" means:

19 (A) the area from which any materials are to be or
20 have been displaced in an aggregate production operation;

21 (B) the area on which any materials that are
22 displaced are to be or have been deposited;

23 (C) the haul roads and impoundment basins within
24 the aggregate production operation; and

25 (D) other land whose natural state has been or
26 will be disturbed as a result of the aggregate production
27 operations.

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1 (2) "Aggregate production operation" means an
2 extraction operation at an aggregate production operation site
3 described by Section 28A.001(1), Water Code.

4 (3) "Commission" means the Railroad Commission of
5 Texas.

6 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION

7 Sec. 135.0051. GENERAL AUTHORITY OF COMMISSION. To
8 accomplish the purposes of this chapter, the commission may:

9 (1) adopt, amend, and enforce rules pertaining to
10 aggregate production operations consistent with this chapter;

11 (2) issue permits under this chapter;

12 (3) conduct hearings under this chapter and Chapter
13 2001, Government Code;

14 (4) issue orders requiring a person to take actions
15 necessary to comply with this chapter or rules adopted under this
16 chapter;

17 (5) issue orders modifying previous orders;

18 (6) issue a final order revoking the permit of a person
19 who has not complied with a commission order to take action required
20 by this chapter or rules adopted under this chapter;

21 (7) hire employees, adopt standards for employment,
22 and hire or authorize the hiring of outside contractors to assist in
23 carrying out this chapter;

24 (8) accept, receive, and administer grants, gifts,
25 loans, or other money made available from any source for the
26 purposes of this chapter; and

27 (9) perform any other duty or act required by or

H.B. No. 3798

1 provided for in this chapter.

2 Sec. 135.0052. MONITORING, REPORTING, AND INSPECTIONS. (a)

3 The commission may:

4 (1) require monitoring and reporting;

5 (2) enter and inspect aggregate production
6 operations; and

7 (3) take other actions necessary to administer,
8 enforce, or evaluate the administration of this chapter.

9 (b) For purposes of this section, the commission or its
10 authorized representative:

11 (1) without advance notice and on presentation of
12 appropriate credentials, has the right to enter:

13 (A) an aggregate production operation; or

14 (B) premises on which records required to be
15 maintained are located; and

16 (2) at reasonable times and without delay, may have
17 access to and copy records required under this chapter or rules
18 adopted under this chapter or inspect any monitoring equipment or
19 method of operation required under this chapter or rules adopted
20 under this chapter.

21 SUBCHAPTER C. RECLAMATION PERMIT

22 Sec. 135.0101. RECLAMATION OBJECTIVE. (a) The basic
23 objective of reclamation is to reestablish on a continuing basis,
24 where required, vegetation and other natural conditions consistent
25 with the anticipated subsequent use of the affected land.

26 (b) The process of reclamation may require contouring,
27 terracing, grading, backfilling, resoiling, revegetation,

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1 compaction and stabilization and settling ponds, water
2 impoundments, diversion ditches, and other water treatment
3 facilities in order to minimize water diminution to existing water
4 sources, pollution, soil and wind erosion, or flooding resulting
5 from extraction or any other activity that may be considered
6 necessary to accomplish the reclamation of the affected land to a
7 substantially beneficial condition.

8 Sec. 135.0102. RECLAMATION PERMIT REQUIRED. (a) A person
9 may not conduct an aggregate production operation that includes a
10 facility for which a permit is required under Chapter 382, Health
11 and Safety Code, without first obtaining a reclamation permit for
12 that operation from the commission under this chapter.

13 (b) The commission by rule shall establish requirements for
14 obtaining a permit. The requirements must:

15 (1) ensure that the permit holder is capable of
16 completing a reclamation process for the permit area in a manner
17 that is compatible with the objective described by Section
18 135.0101; and

19 (2) be modeled on the reclamation requirements for
20 surface mining of uranium and uranium ore under Chapter 131 and
21 surface coal mining under Chapter 134, including the submission of
22 a reclamation plan and a performance bond.

23 Sec. 135.0103. PERMIT APPLICATION AND ISSUANCE. (a) The
24 commission by rule shall establish requirements for submitting a
25 permit application.

26 (b) Chapter 2001, Government Code, applies to a permit
27 application under this chapter.

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1 (c) On the basis of a complete application for a permit, the
2 commission shall approve, require modification of, or deny a permit
3 application.

4 (d) An applicant for a permit has the burden of establishing
5 that the application complies with this chapter and rules adopted
6 under this chapter.

7 Sec. 135.0104. PERMIT REVISIONS. (a) The commission by
8 rule shall require that a permit holder:

9 (1) notify the commission of any significant changes
10 in a condition that the commission evaluated as part of the permit
11 application process that occur after the permit was issued; and

12 (2) apply for a permit revision if the commission
13 determines a revision is appropriate.

14 (b) A permit revision application is subject to the same
15 requirements for issuance as an initial permit.

16 SUBCHAPTER D. ENFORCEMENT

17 Sec. 135.0151. CIVIL OR ADMINISTRATIVE ENFORCEMENT.
18 Subchapter H, Chapter 134, applies to the civil or administrative
19 enforcement of this chapter or a rule, order, or permit adopted or
20 issued under this chapter in the same manner as that subchapter
21 applies to the civil or administrative enforcement of that chapter
22 or a rule, order, or permit adopted or issued under that chapter.

23 Sec. 135.0152. CRIMINAL PENALTY FOR WILFUL AND KNOWING
24 VIOLATION. (a) A person commits an offense if the person wilfully
25 and knowingly violates a condition of a permit issued under this
26 chapter or does not comply with an order issued under this chapter,
27 except an order incorporated in a decision issued by the commission

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1 under Section 134.175, as applicable under Section 135.0151.

2 (b) An offense under this section is punishable by:

3 (1) a fine of not more than \$10,000;

4 (2) imprisonment for not more than one year; or

5 (3) both the fine and the imprisonment.

6 Sec. 135.0153. CRIMINAL PENALTY FOR FALSE STATEMENT,
7 REPRESENTATION, OR CERTIFICATION. (a) A person commits an offense
8 if the person knowingly makes a false statement, representation, or
9 certification, or knowingly fails to make a statement,
10 representation, or certification, in an application, record,
11 report, or other document filed or required to be maintained under
12 this chapter or under an order of decision issued by the commission
13 under this chapter.

14 (b) An offense under this section is punishable by:

15 (1) a fine of not more than \$10,000;

16 (2) imprisonment for not more than one year; or

17 (3) both the fine and the imprisonment.

18 SECTION 6. (a) Notwithstanding Chapter 382, Health and
19 Safety Code, after the effective date of this Act, the Texas
20 Commission on Environmental Quality may not issue a permit under
21 Chapter 382, Health and Safety Code, for a facility that is or is
22 proposed to be part of an aggregate production operation required
23 to be registered under Section 28A.051, Water Code, until the
24 commission completes the assessment and, if applicable, adopts any
25 revisions or programs described by Subsection (b) of this section.

26 (b) Not later than October 1, 2020, the Texas Commission on
27 Environmental Quality shall conduct an assessment of the effects on

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1 air quality created by the aggregate production industry in this
2 state to determine whether air quality models used by the
3 commission to evaluate emissions from the production of aggregates,
4 as defined by Section 28A.001, Water Code, are contravening the
5 intent of Chapter 382, Health and Safety Code. The commission
6 shall:

7 (1) revise the air quality models and, if necessary,
8 any relevant permit requirements if the commission determines from
9 the assessment that revisions are necessary to accomplish the
10 intent of Chapter 382, Health and Safety Code; and

11 (2) adopt a standard audit and air sampling program as
12 authorized under Section 382.069(b), Health and Safety Code, as
13 added by this Act, if the commission determines from the assessment
14 that such a program is necessary to accomplish the intent of Chapter
15 382, Health and Safety Code.

16 (c) The Texas Commission on Environmental Quality shall
17 submit to the legislature a report on the results of the assessment
18 required by Subsection (b) of this section.

19 SECTION 7. (a) Section 6(a) of this Act does not prohibit
20 the Texas Commission on Environmental Quality from granting an
21 application for a permit that is filed before the effective date of
22 this Act.

23 (b) Sections 382.0516(c) and 382.069(d), Health and Safety
24 Code, as added by this Act, and Sections 382.056(r) and 382.065,
25 Health and Safety Code, as amended by this Act, apply only to an
26 application for a permit that is filed with the Texas Commission on
27 Environmental Quality on or after the effective date of this Act. An

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1 application for a permit filed before the effective date of this Act
2 is governed by the law in effect on the date of filing, and that law
3 is continued in effect for that purpose.

4 SECTION 8. This Act takes effect September 1, 2019.

May 1, 2019 City Council Regular Meeting

2nd Citizen Comment Period

	NAME	ADDRESS	SUBJECT
1.	Bob Crawford	9507 Goxiria	TOUR OF Tomlin Ave
2.	KEN KNEPPER	8891 SCHONTHAL	#5#9 PAVENPORT.
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