



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
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AGENDA

SPECIAL CITY COUNCIL MEETING, FEBRUARY 13, 2017 AT 2:00 P.M.

The Garden Ridge City Council will meet in a special session on Monday, February 13, 2017 at 2:00 p.m. in the City Council Chambers, 9400 Municipal Parkway, Garden Ridge, Texas. This is an open meeting, open to the public, subject to the Open Meetings Law of the State of Texas, and as required by law, notice is hereby posted on February 10, 2017 before 2:00 p.m., providing time, place, date and agenda thereof. The meeting facility is wheelchair accessible and accessible parking spaces are provided. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting.

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1. Call to Order
 2. Roll Call
 3. Pledge of Allegiance
 4. Citizen's Participation - Limit remarks to three (3) minutes per citizen

Rules for Citizen's Participation:

The City Council welcomes citizen participation and comments at all of their Council Meetings. As a courtesy to your fellow citizens and out of respect to our elected officials, we request that if you speak, that you please follow these guidelines.

- a) Direct your comments to the entire Council, not to an individual member, nor to the audience.
- b) Show the City Council the same respect and courtesy that you would like to be shown.
- c) Limit remarks to three (3) minutes per citizen during Item 4 and to three (3) minutes per citizen during Item 6.
- d) Citizens' comments will be limited to one (1) hour in Item 4 and thirty (30) minutes in Item 6.
- e) Citizen comments may be deferred to a specific Business Item set forth in Section 5, below, if such comments pertain to such Business Item.

*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 Council is limited to either a statement of specific factual information or a recitation of existing policy. TEX. GOV'T CODE § 551.042.*

5. Business Items (postponed from February 1, 2017 City Council Regular Meeting)

- a) Fiscal Year 2016 Audit report (period ending September 30, 2016)
 - i. Discuss and review report
 - ii. Consider approval of the Fiscal Year 2016 Audit Report
- b) Receive a recommendation from the Planning and Zoning Commission to hire Freese and Nichols as the City of Garden Ridge professional planner for the purpose of development of a Master Land Use Plan; authorize the City Administrator to negotiate and execute the contract.
- c) Update on status of Water Manager vehicle
 - i. Authorization to purchase a replacement vehicle for the Water Department (Water Manager).
- d) Oak Wilt:
 - i. Resolution 404-02207 of the City Council of the City of Garden Ridge, Texas, adopting policies and procedures establishing a cost share program to reimburse property owners for a portion of their costs for certain oak wilt abatement measures and providing for an effective date for Reimbursement Rebate Program.
 - ii. Enforcement of Ordinance 71-112016
 - iii. Request for City participation in oak wilt mitigation in active event on Glen Cove.
- e) Deer/Wildlife Management
 - i. Discussion and possible approval on the creation of a Wildlife Management Committee.
 - a) Approval of Ordinance 196-012017 of the City Council of the City Of Garden Ridge creating a Wildlife Management Advisory Committee for the purpose of studying the feasibility of managing the wildlife populations, particularly White-Tailed Deer, and tasked with the development of a plan to mitigate impacts caused by wildlife and to reassure the quality of life for residents of Garden Ridge; providing for the purpose and duties of the Advisory Commission, composition and term of office and providing an effective date.
 - ii. Discussion and possible approval of the creation of a Wildlife Management Commission.
 - a) Approval of Ordinance 196-012017 of the City Council of the City Of Garden Ridge creating a Wildlife Management Advisory Commission for the purpose of studying the feasibility of managing the wildlife populations, particularly White-Tailed Deer, and tasked with the development of a plan to mitigate impacts caused by wildlife and to reassure the quality of life for residents of Garden Ridge; providing for the purpose and duties of the Advisory Commission, composition and term of office and providing an effective date.

- iii. Update on status Deer Management Survey
 - a) Review proposed survey and survey process
- 6. Citizen's Participation – Limit remarks to three (3) minutes per citizen
See "Rules for Citizen's Participation" under Item 5.
- 7. Adjournment

AGENDA NOTICES:

Decorum Required:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

Action by Council Authorized:

The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

Executive Sessions Authorized:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.


Shelley Goodwin, TRMC
City Secretary

This is to certify that I, Shelley Goodwin, posted this Agenda at 2:30 p.m. on February 9, 2017 on the bulletin board located at the entrance to the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas.


Shelley Goodwin, TRMC
City Secretary

Prepared for Garden Ridge City Council Meeting February 13, 2017

From: Garden Ridge Planning and Zoning Commission
Special Session Tuesday February 7, 2017

To: Garden Ridge City Council

Subjects:

- a. Executive Session: Pursuant to Texas Government Code Chapter 551.074 (personnel) to deliberate the appointment, employment and duties of a land use planner (interviews of the candidates will be conducted at 6:00 p.m. and 7:00 p.m.)
- b. Regular Session: Take action as necessary to either recommend the candidates bring back additional information or recommend to the City Council the hiring of a City Professional Planner for development of a Master Land Use Plan for the City.

Commission Discussion a. Interviews with the two candidates.

The two candidates were interviewed, each interview lasting approximately an hour, and thoroughly vetted by the Commissioners.

Commission Discussion b. Recommendation for hiring of a City Professional Planner.

After some discussion, the Commissioners decided there was no need for the candidates to come back with additional information and the information presented by each was sufficient to make a recommendation.

Following considerable discussion, a motion to recommend to Council the hiring of Freese and Nichols, Inc. to fill the Professional Planner function in accordance with the RFP was made. The motion passed, 5 for and 1 opposed (one vacant position).

Representatives of Freese and Nichols will be available at Council to make a short presentation and answer questions.

Samuel E. Stocks
Chairman

ORDINANCE 71-112016

AN ORDINANCE AMENDING ORDINANCE NUMBER 71 DATED MARCH 5, 2014, IDENTIFYING A POTENTIALLY SEVERE PROBLEM IN THE MAINTENANCE OF HEALTH AMONG THE THOUSANDS OF OAK TREES WITHIN THE CITY OF GARDEN RIDGE, TEXAS; IDENTIFYING THE DISEASE OF THREAT TO THOSE TREES AS OAK WILT; ESTABLISHING PROCEDURES FOR CONTROL AND DISPOSITION OF DISEASED TREES WITHIN THE CITY; KEEPING OF PROPERTY FREE FROM DISEASED TREES; REGULATING REMOVAL AND DISPOSAL; PROHIBITING NUISANCES; PROVIDING FOR NOTICE AND ABATEMENT; PROVIDING FOR COST RECOVERY; DEFINING TERMS; PROVIDING PENALTIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES FOR THIS ORDINANCE; AND PROVIDING FOR SEVERABILITY AND PUBLICATION

Whereas, the City of Garden Ridge is forested with various trees which provide natural beauty within the City, with oaks being the most numerous; and

Whereas, the forests, copses and individually cultivated and maintained trees of the city are essential to the economic, environmental and aesthetic welfare of the citizens of Garden Ridge and;

Whereas, oak wilt, a vascular-tree disease that is fatal to most oaks, has been discovered within the City; and

Whereas, oak wilt is spread by a sap-feeding nitidulid beetle that migrates from an infected oak tree carrying spores to an open wound on other oak trees, including live oak trees which then spread the disease to nearby healthy trees through interconnected root masses of the infected and healthy trees; and

Whereas, the City Council has determined that diseased trees and parts thereof are a public nuisance and are dangerous to persons and property and are a serious threat to property values and;

Whereas, the Texas Forest Service has recommended measures to combat the spread of oak wilt.

Whereas, the City Council has determined that abatement of such nuisance is to the benefit of public health, safety and general welfare;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS;

SECTION 1 – OAK TREE-TRIMMING REGULATIONS

1.01 – DEFINITIONS

Oak Tree: A deciduous tree of the genus *Quercus* which bears acorns as fruit, and lobed leaves, including but not limited to live oaks, red oaks, and white oaks.

1.02 – PROHIBITIONS

Any person, individual, firm, corporation, contractor, landscape contractor, tree trimmer, builder, utility service or any type of business entity which causes a wound to an oak tree, whether from ground- maintenance equipment, trimming, cutting or pruning shall paint the wound immediately after the cutting, trimming, pruning or wounding of the tree with opaque paint to prevent contact with contaminated nitidulid beetles. Painting of oak roots is required by contractors making underground utility cuts and excavations where there are live oak roots.

1.03 - PERMITTING

No person, individual, firm, corporation, contractor, landscape contractor, tree trimmer, builder, utility service or any type of business entity shall trim, prune or remove any oak tree within the City between February 1 and July 1 of each year.

1.04 – EXCEPTIONS

It is not a violation of section 1.02 to:

Completely remove damaged or dead oak trees from a property.

To immediately trim an oak tree because of an act of God or an accident which has caused damage to the tree and immediate trimming is necessary to protect an individual's safety or property.

To comply with Garden Ridge Ordinance 107 to maintain clearance of roadways, right-of-ways, to clear obstructions of traffic control devices and visibility.

SECTION 2 – DISEASED OAK TREES AS NUISANCE

2.01 – NUISANCE DEFINED

Any oak tree or part thereof which is infected by a lethal communicable disease that is likely to spread to other trees, including but not limited to oak wilt, dead oak trees, oak firewood and other wood from oak trees that are infected with oak wilt are hereby declared a public nuisance, pursuant to Chapter 342 of the Texas Health and Safety Code.

2.02 – OAK WILT

The disease of greatest concern to this city, Ceratocystis Fagacearum (Oak Wilt), is a fungus which attacks oak trees. It being the duty of all citizens to safeguard personal and public properties, all are enjoined to learn to identify and report to the City Administrator any sightings of oak wilt disease. To learn more about the prevention of Oak Wilt please visit the Texas Forest Service's website <http://texasforestservicetamu.edu/>.

a. Transmission

1. Spores of the fungi are carried by insects and may invade recently wounded branches or tree trunks at the point of exposure.
2. All oak firewood imported to the city may carry the fungi which may, when placed in the vicinity of living oak trees, create an infection center capable of spreading the disease to surrounding healthy oak trees.
3. The disease may move in live oaks from one tree to another where trees are close enough to one another that their root systems are interconnected by underground grafting.
4. The spores may be carried from diseased trees to healthy trees by sap beetles.

b. Symptoms

1. Live Oak

- (a) limb flagging
- (b) light brown leaves (Spring)
- (c) dead leaf margins (Summer)
- (d) dead veins (Fall)
- (e) leaf drop
- (f) tree dies quickly (weeks or months) and may often involve large areas
- (g) trees do not respond to water
- (h) 1 tree or clump at a time

2. Red Oak

- (a) wilted leaves
- (b) leaves die from tips inward
- (c) tree dies within days
- (d) no leaf drop

SECTION 3 – ABATEMENT OF NUISANCE

3.01 – ABATEMENT OF NUISANCE BY OWNER OR OCCUPANT

It shall be unlawful for any person, owner or occupant having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limit of the city to permit or maintain on any such lot, tract or parcel, any oak tree or part thereof which is a nuisance and it shall be the duty of such person, owner or occupant to promptly remove, eradicate or otherwise control such condition and dispose of it as recommended by the Texas Forest Service.. *Property owners within 100' from dripline of infected trees(s) are subject to any nuisance abatement or treatment plan as necessary to prevent the spread of oak wilt or other communicable disease.*

Upon discovery of an infected oak tree the owner or occupant having supervision or control of the property shall:

- a. Flag trees affected to facilitate locating
- b. Report finding to City Administrator
- c. Act immediately to treat or remove affected oak tree(s)

Treat infected and uninfected tree/s on property with fungicide specifically utilized for oak wilt;

Prepare a plan for trenching 48" deep 100' from dripline of infected tree/s. Plan must contain addresses of all adjacent properties within 100' that trenching will occur upon and must be accompanied by a letter from each property owner of the properties that trenching will occur on stating that the property owner will participate in the trenching and pay their portion of costs associated with the trenching. The City will send written notice to all adjacent properties within 100' from dripline of infected trees to advise of nuisance finding of the City Administrator.

Trenching plan is to be submitted to the City of Garden Ridge for approval within 60 days from date the oak wilt infection is reported to the city.; and

Trenching must be completed within 45 days after the trenching plan is approved by the city.

If a property owner desires to have the tree/s tested to confirm oak wilt the property owner will pay for all costs associated with testing of the tree/s. Test results whether positive or negative for oak wilt must be submitted to the city within 5 days of receiving results.

The City will not be responsible for enforcing any cost sharing agreements made between property owners.

3.02 – ABATEMENT OF NUISANCE BY CITY

a. Inspections:

Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by City personnel or the Texas Forest Service pursuant to this Ordinance. If such entry is requested and refused, and the City or Texas Forest Service has probable cause to believe there exists on the subject premises a public nuisance, the City or Texas Forest Service shall go before a Municipal Court Judge of the City and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of oak trees or parts thereof as are required for the purpose of analysis to determine whether the same are infected with oak wilt, or some other communicable disease.

b. Notice:

Whenever any condition described in this Ordinance is found to exist in the City, the City Administrator or designated representative shall serve or cause to be served notice to the owner, agent or occupant of the lot, parcel or premises on which the nuisance exists to remove or remedy the condition(s) within ten (10) working days from the date of the notice. Such service of notice shall be by personal service or certified mail, return receipt requested. Written notice served by certified mail must be addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; additionally notice of the violation should be posted on a placard attached to a stake driven into the ground on the property to which the violation relates. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered. The owner of the premises for purposes of this article means a person who has title to the property, possession of the property,

whether lawful or not or a greater right to possession of the property than all but the titled owner. Failure of the owner to correct the violation within the specified time shall constitute a misdemeanor.

c. Appeal:

The owner served with notice as described in Section 3.02(b), shall have the right to appeal the order to the City Council. Notice that such owner desires to appeal shall be submitted in writing to the City Administrator within the time specified for abatement in the notice. Upon receipt of notice of appeal, the City Administrator shall schedule a meeting with the City Council as soon as practicable to consider such appeal.

d. City to Cause Removal and Disposal of Nuisance:

Should the property owner fail to abate the public nuisance or appeal the notice of nuisance within ten (10) days following the receipt of notification, the City shall have the right to cause the removal and disposal of the diseased trees or parts thereof. The full cost of such removal and disposal shall be assessed to the property owner. Should the property owner fail to pay the City within thirty (30) days from the date of invoicing the City may, at its discretion, file a lien against the property in the amount of all costs incurred by the City, plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342, Tex. Health & Safety Code.

SECTION 4 – PENALTY FOR VIOLATIONS

It shall be unlawful for any person, company, corporation or conglomerate to do any act forbidden by this Ordinance or fail to perform any act or operation required by this Ordinance. Violations of this Ordinance are punishable with a fine of up to, but not to exceed one thousand (1,000) dollars, with each day after notification of violation persists being considered a new and separate offense.

SECTION 5 – SEVERABILITY CLAUSE

If any section, paragraph, sub-division, clause or phrase of this Ordinance shall be adjudged invalid, illegal or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of any provision thereof other than the part so decided to be invalid, illegal or unconstitutional.

SECTION 6 – EFFECTIVE DATE

This Ordinance shall be effective from and after its passage at a City Council meeting and publication as required by the Local Government Code.

Passed and Approved on this 2nd day of November , 2016.



Nadine L. Knaus
Mayor

ATTEST:



Shelley Goodwin, City Secretary

Members of the Garden Ridge City Council,

As you know, we are currently facing a serious oak wilt situation threatening nearby properties in the Glen Cove area. An instance of oak wilt has been located in a couple of trees at 20803 Glen Cove. The owner of that property decided that he would not participate in trenching services prescribed by the state Forest Service Oak Wilt expert, Bob Edmonson.

In October, Jerry Barucky took on the responsibility of researching factors and options for addressing this problem. He met with seven immediate adjacent property owners and our Garden Ridge City Administrator, and he had the utilities locaters for electric and communications lines outline the paths of their lines around the Ashley and adjacent properties. He arranged visits from four contractors that could provide the trenching services prescribed. Though it took a while to get back their rough estimates, he assembled their suggestions and responses and summarized their recommended approaches and costs, outlining potential pros and cons, in the attached document. You'll see that solutions and ultimate costs can vary depending on the type of soil that the trench will go through.

While the summary provides more detailed factors considered in determining options and costs, a short version of the potential possible costs for each of four of the property owners surrounding the Ashley property who will have the potential trench running through their property is as follows:

1. Buchner: From \$1,000 to as much as \$4,800, trench and backfill, no restoration
2. Eardley: From \$3,000 to more than \$9,200, includes restoration of fence portions, lawn and sprinkler system
3. Barucky: From \$6,200 to \$9,600 includes restoration of fence portions, lawn & sprinkler system
4. Berg: Approximately \$5,200 includes partial restoration and repair of portion of driveway

He recently provided a summary of the possible trenching options and costs to adjacent property owners. The affected owners having trenching done will be deciding soon on their courses of action. Some of these owners will find it difficult to meet the financial burden of this project. To ensure that their decisions are based on the most effective, rather than just the cheapest, options, we are collectively asking the City of Garden Ridge to help offset the cost of this trenching effort.

We are asking the City to provide support for 25% of the costs up to a total of \$6,000. The reimbursement would be prorated among those properties undertaking trenching based on the charges each incurs for their portion of the project. Failure to contain this oak wilt immediately will engage an ever widening number of properties, with expanded trenching costs to homeowners and City far beyond the current effort.

We will need to know your response as quickly as possible since we wish to complete the work by the end of January to stop the disease spreading through the root systems to our properties

Helmut Buchner – 20506 Bat Cave Rd

Todd Arvidsson – 20506-2 Bat Cave Rd

George Berg – 20806 Glen Cove

Eric Eardley – 20807 Glen Cove

Casey Lowe – 20811 Glen Cove

Jerry Barucky - 20806 Woodland Cove

Jim Roberts – 20810 Woodland Cove

Mark Mattison – 20814 Woodland Cove

EXHIBIT OUTLINE RECOMMENDED BY STATE FOREST SERVICE

