



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
Fax (210) 651-9638

AGENDA REGULAR CITY COUNCIL MEETING, AUGUST 1, 2012 AT 6:00 P.M.

The Garden Ridge City Council will meet in a regular session on Wednesday, August 1, 2012 at 6:00 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 July 27, 2012 before 5:00 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.

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Citizen's Participation- 3 minute limit 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 must request that if you wish to speak, that you 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 expect to be shown to you.
- c. Limit remarks to three (3) minutes.

*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. Minutes

The City Council may discuss, consider and/or take possible action on the following items:

- a) June 20, 2012 Special City Council and Quarry Commission Meeting Minutes
- b) July 3, 2012 Regular City Council Meeting Minutes
- c) July 17, 2012 Special City Council Meeting Minutes

6. Business Items

The City Council may discuss, consider and/or take possible action on the following items:

- a) Update and possible action on public safety concerns in the Wild Wind Unit 3 Subdivision of Garden Ridge, Texas and to include City of Garden Ridge v. Vordenbaum, Inc. D/B/A Bracken Rifle and Pistol Range, (Cause No. C2011-1647A, in the 2nd Judicial District Court)
- b) City Water Commission recommendation to define the ample water supply necessary to be brought in and transferred to the City of Garden Ridge in accordance with the Transferable Water Rights – Requirement of Ordinance 7-02011 for a commercial development at the northeast corner of the intersection of FM 2252 and FM 3009
- c) City Water Commission recommendation on a policy concerning variance requests to the Demand Reduction Measures during Drought Management Stages
- d) City Water Commission recommendation on resignation of Tony Zugay as Water Commissioner, Place 3 effective July 12, 2012
- e) City Water Commission recommendation on appointment to fill the vacancy in Place 3 on the Water Commission for the unexpired term of office through September 30, 2012
- f) City Water Commission recommendation on appointment to Place 4 on the Water Commission for a period of two years due to expiring term of office on September 30, 2012
- g) Ordinance 143-082012 granting an exclusive franchise agreement between the City of Garden Ridge, Texas and Bexar Waste, for the collection and disposal of solid waste and recycling service, authorizing the Mayor to execute the contract, setting forth general specifications establishing rates for collection and disposal of solid waste and recycling service, providing for collection and disposal of solid waste and recycling service, providing for the collection of established rates and providing for enforcement and prescribing a penalty of a fine of not less than \$100.00 nor more than \$500.00 and making each day a separate offense
- h) Update on relocation of 12” water line beginning at the FM 3009/FM 2252 intersection and moving in a westerly direction along the north side of FM 3009 and in a southerly direction along the west side of FM 2252
- i) Update on 2010 Storm Water Master Plan for the City of Garden Ridge and as it relates to storm water drainage through the Hickory Bend drainage easement and the Arrowood Subdivision

7. State of the City

The City Council may discuss, consider and/or take possible action on the following items:

- a) Financial Statement and Investment Report
 - a) June 30, 2012
 - b) July 31, 2012 (Presentation at September 5, 2012 City Council Meeting)
- b) City Administrator Monthly Activity

Sign approvals since prior Council meeting
Community Center usage and financial report
Building Permits issued to date for residential, commercial and minor building projects
Update on new city website

- c) Public Works/Water Department Monthly Activity
 - Water pumping/usage from city wells
 - Water system infrastructure maintenance, repairs and/or projects
 - Public Works projects
 - Animal Control apprehensions, nuisance/complaints, animal bites
- d) Police Department Monthly Activity
 - Citations issued
 - Warnings issued
 - Criminal activity within city
 - Code Compliance:
 - Citations issued
 - Warnings issued
 - Compliance achieved
- e) Recognition of employees and/or city events
- f) Observations and activities of wildlife within the city
- g) Water and/or Drought Management
- h) Update on FM 3009 Construction Project

8. Citizen's Participation – 3 minute limit per citizen

See "Rules for Citizen's Participation" under Item 4.

9. 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:

- Northeast Partnership
- City Water Commission
- City Quarry Commission
- Garden Ridge Police Academy Alumni Association
- Cellular on Patrol
- Garden Ridge Lion's Club

10. 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:

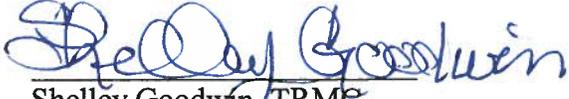
This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the 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 11:30 a.m. on July 27, 2012 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



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
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**MINUTES OF SPECIAL JOINT CITY COUNCIL
AND QUARRY COMMISSION MEETING,
JUNE 20, 2012 AT 6:30 P.M.**

Members Present:

Mayor Feibelman
Mayor Pro-Tem Britan
Councilman Roberts
Councilman McCaw
Councilman Dalton
Commissioner Gunnarson
Commissioner Mudge
Commissioner Warden
Commissioner Holloway
Commissioner Morgan
Commissioner Holly
Commissioner Blades

Member Absent:

Councilman Young

City Staff Present:

Nancy Cain, City Administrator
Shelley Goodwin, City Secretary
Sandy Edwards, Administrative Assistant

1. Call to Order

With a quorum of the City Council Members present, Mayor Feibelman called the special meeting of the Garden Ridge City Council and Quarry Commission to order at 6:30 p.m. on Wednesday, June 20, 2012, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

2. Citizen's Participation - 3 minute limit per citizen

No one wished to speak (sign up sheet attached).

3. Business Items

The City Council and Quarry Commission may discuss and consider the following item:

a) Quarry Commission presentation of Commission's accomplishments

Mayor Feibelman thanked the Quarry Commission for their hard work and time.

Commissioner Warden provided the City Council and Quarry Commissioners with a handout with the Quarry Commission's Mission, Overview and Accomplishments (see attachment). He reviewed the Accomplishments with the City Council and Quarry Commissioners.

Commissioner Gunnarson reviewed the history of how Vibra Tech was hired and thanked them for hard work. He also reminded the City Council in the proposed Ordinance 34 is additional history of blasting data Attachment A.

b) Quarry Commission presentation of recommended amendments to Ordinance 34

Commissioner Mudge provided and reviewed with the City Council and Quarry Commissioners a current and proposed Ordinance 34 Comparison Chart (see attached).

Commissioner Warden provided and reviewed with the City Council and Quarry Commissioners a table of data regarding blast from 2005 – 2011 (see attached).

Commissioner Holloway provided the City Council with history of the proposed amendments to Ordinance 34. He reported the Quarry Commission created a sub committee, which developed a draft. The Quarry Commission reviewed the draft and after the 12th draft it was sent to the City Attorney for legal reviews. He stated the proposed Ordinance changes are the reflection of most citizens, commissioners and subcommittee members.

Commissioner Gunnarson also reported that all meetings regarding the amendments to Ordinance 34 were public meetings.

The City Council expressed concern with the following:

- *minimum distance from citizen's property* Commissioner Gunnarson reported this was a request from citizens to include property instead of residence. George Hyde, City Attorney, reported using property lines is clearer way to understand the limits. He also reported that if the blasting permit holder feels they need to blast closer than 500' feet of a property line, then they may request a variance to the minimum distance requirement from the Regulatory Authority (City Council).
- *Noise limits* Commissioner Holloway reported the monitors will register the noise
- *Flyrock leaving property* George Hyde, City Attorney, reported that if fly rock were to enter into another property then it would be a common law trespass and/or a Tort Claim under civil remedies.
- *Amending air blast* George Hyde, City Attorney, reported airborne shock wave or acoustic transient generated by an explosion, which is what causes the walls to vibrate. This was added to provide the blasting vendor with limits. He also

reported that there are two ways to violate the proposed Ordinance 34; blasting operations and noise.

- *Penalties* George Hyde, City Attorney, reported the proposed Ordinance 34 violations vary from \$500.00 to \$2,000.00 or revoking the blasting permit. He stated the proposed Ordinance 34 does include a Severability and Repeal Section.

Joe Crownover, Vibra Tech, explained the different between dBA and PPV. He stated dBA is the term used to measure noise and involves quantifying both the rate and intensity relative to normal atmospheric pressure. PPV is measure of the intensity of ground vibration specifically the velocity of motion of the ground particles as they are excited by the wave energy.

4. Executive Session

The City Council and Quarry Commission may recess its joint meeting and reconvene in Executive Session pursuant to Texas Government Code 551.0871 to seek legal advice regarding amendments to Ordinance 34.

The City Council and Quarry Commission did not convene into the Executive Session.

5. Business Items:

The City Council and Quarry Commission may discuss, consider and/or take possible action on the following item:

Recommended amendments to Ordinance 34 as presented by the Quarry Commission

Mayor Feibelman thanked everyone for their hard work on the proposed Ordinance 34 and felt it was a good balance which addressed most citizens' concerns.

Councilmember Dalton felt the key issue is whether the City Council is prepared to revoke the blasting permit if there are 3 violations within a 12 month period.

Brian Lantzy inquired to when the proposed amendments to Ordinance 34 would come before the City Council for approval.

Mayor Feibelman stated a public hearing and then consideration of approval of the proposed amendments to Ordinance 34 will be held at the July 3, 2012 Regular City Council Meeting.

6. Adjournment

There being no further business, the Wednesday, June 20, 2012 Garden Ridge City Council special meeting was adjourned at 8:11 pm by Mayor Feibelman.

Jay Feibelman

Mayor

Bob Gunnarson
Quarry Commission, Chair

ATTEST

Shelley Goodwin, TRMC
City Secretary

**SIGN IN TO SPEAK AT THE JUNE 20, 2012
JOINT CITY COUNCIL AND QUARRY COMMISSION
SPECIAL MEETING**

Rules for Citizen's Participation:

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Disclaimer:

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NAME

ADDRESS

SUBJECT

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Mission

Serve as an educational resource to the citizens of Garden Ridge, advising them about the Hanson Quarry and its impact, monitor quarry operations for compliance with City Ordinances, recommend needed changes to City Ordinances and to develop a quarry grievance process in order to protect the natural and economic environment and the quality of life in the City of Garden Ridge. The Quarry Commission which has no legal or regulatory authority functions as a point of contact with the management of Hanson Aggregates Servtex to enhance relations and to work on issues in the best interests of the citizens of Garden Ridge.

Overview

The Hanson Aggregates Servtex Garden Ridge Quarry comprises approximately 3000 acres of which the operational portion is within the city limits. It produces approximately 25,000 tons of crushed stone daily. At this time on an average of two to three times per week, the quarry blasts rock for their crushing operations. These blasts are generally near midday and are generally well below federal guidelines. Current plans are to mine the area behind Trophy Oaks subdivision which should take several years. Then mining operations will shift to a northwesterly direction, which will be generally towards city hall, Georg Ranch and Old Schoenthal Road. However, the Quarry face which will have a different orientation will still be adjacent to Trophy Oaks for several years. The current projection is that it will take -up to 25 years to mine their holdings.

Currently, there are no state, county or local laws governing mining operations so long as they comply with federal guidelines and meet environmental standards. Your Quarry Commission has been effective in reducing the impacts of quarry operations on our community.

Accomplishments

The Garden Ridge Quarry Commission has been in existence for over 10 years (August 2011). It was formed with the approval of the City Council and Mayor by concerned citizens. The commission has little legal recourse to stop quarry activity, though we continually support efforts at the state and county level that would change this. We have always made it a critical issue to mitigate and moderate the impact of the quarry on the citizens of Garden Ridge. Without our (your) concerns being voiced, The quarry would likely blast much closer to the Federal guideline maximums. The Quarry Commission, working with The City Council, the Mayor, Hanson Aggregates and Austin Powder has been successful in the following areas;

1: Upon being formed the Quarry Commission created an open channel for dialogue with the quarry. The commission instituted a blast monitoring system in an attempt to better understand and evaluate quarry blasts. **Numerous educational meetings have been held to better educate the members of the Commission.** This has allowed better and more pointed communication with Hanson **and Austin Powder** for the benefit of city the residents.

2: The Quarry Commission negotiated with Hanson to purchase and use a blast face profiler to reduce air blasts during quarry detonations. Generally, it is the air blasts not the noise or the ground vibrations that are the most perceptible.

3: The Quarry Commission encouraged Hanson to change from the use of standard blasting caps to the use of electronic blasting caps. This action was taken in order to lessen the perceived impact of blasts by better controlling the split millisecond timing between

the typical 36 individual detonations that make up a "blast" over the course of one second. These electronic caps, which cost over \$3000 more per blast, have afforded more consistency in controlling blast effects.

4: With the encouragement of the Quarry Commission Hanson constructed and continues to enlarge an earthen berm between the western most limits of the quarry face and the Trophy Oaks Subdivision. This berm provides visual screening; helps deflect quarry noise, and acts as a physical barrier.

5: The Quarry Commission requested that Hanson provide employees and contractors to work with the Commission. This includes the quarry site manager and the lead blasting contractor. This allows for better communications which results in faster response to citizen concerns.

6: At the recommendation of the Quarry Commission Hanson purchased **one, and ultimately 3,** calibrated seismic monitors and has paid the expenses of blast measurements at specific locations directed by the Commission based on citizen requests and required data.

7: After a lengthy process, Vibra-Tech, the firm that was instrumental in developing Federal Mining Guidelines was selected by the Commission and approved by the City Council to monitor quarry blasting. This firm collects and analyzes blast data then renders monthly reports on each blast to the City. This data is used by the Commission and Hanson to reduce impact of the quarry operations. Under the provisions of Garden Ridge City Ordinance 34, Hanson assumed the cost of an independent blast vibration consultant firm which monitors blasting operations. Upon a request from the Commission, Hanson has expanded the initial agreement from monitoring at one to three locations.

These reports are available on this website.

8: With the encouragement of the Quarry Commission Hanson changed the face of the quarry in order to better direct ground vibrations away from the majority of the City. This expensive measure caused the quarry to cut a hundred foot deep by approximately 950-foot wide notch out of solid limestone. As this notch was extended to the west the intensity of blasts was more perceptible. Due to the shift of the quarry face, Hanson is incurring daily increases in their production costs as the operation is less efficient and time/distance to the crusher is increased. In October 2005, Hanson began to bench their blasts in the notch thus reducing the required amount of explosives as they approach Trophy Oaks. Benching refers to blasting 50 feet deep instead of the normal 95 feet. A second blast for the lower 45 feet is required, but should have much reduced effects.

9: The Quarry Commission has conducted 2 public meetings which included Hanson, Vibra-Tech, the Quarry Commission and an independent soils engineer to better educate the citizens about blasting and soils related concerns.

10: With the aggressive encouragement from the Quarry Commission Hanson retained a blasting contractor whose firm is working with the Commission to lessen blast effects rather than just being focused on production goals. This was agreed to by Hanson after the 2 other blasting contractors being evaluated exceeded impact guidelines in test shots. Until January of 2011 Austin Powder, the blasting contractor had not exceeded limits one time.

11: **The Quarry Commission has educated and continues to educate the citizens** on quarry issues and operations through Grapevine articles, the city's website, quarry site tours and the Commission's monthly meetings. We encourage citizens to attend our monthly meeting. Don't wait for a blast to impact you before you become educated on the quarry operations, your Quarry Commission's ability to support you and what State and Federal rules apply.

12: **The Quarry Commission has developed electronic means for citizens to contact the City and Commission about quarry concerns** at quarrycom@ci.garden-ridge.tx.us Citizens are encouraged to report any excessive or unusual blasts in order that they can be properly investigated.

13: **The Quarry Commission has routinely encouraged** Hanson to do everything possible to keep blast impact data at **50% of the Z curve** and to be highly sensitive to air over pressure.

14: The Quarry Commission has repeatedly talked to Hanson and Austin Powder about **blast timing to mitigate impact**. This technical issue is one of the most important points that must be understood and pursued to lessen impact on our homes.

15: **The Quarry Commission has negotiated a minimum distance of 1000'** from the nearest citizen residence. While a good case can be made that closer blasting requires much more stringent blast controls and this mandate makes specific distances less important we, nonetheless, feel our citizens will be more comfortable with specific setbacks (unlike Shaveno Park where mining occurs within 250' of some homes).

16: **The Quarry Commission has worked routinely with Hanson on noise and light discipline**. Hanson has been immediately responsive on night time lighting issues and OSHA audible backup alarms. They redirected lights and purchased OSHA approved strobe devices for night time operations.

17: The Quarry Commission has always recommended that Hanson and Austin Powder **be sensitive to weather events that might increase blast impact**. Austin Powder, with Hanson's approval, has on numerous occasion held or even postponed shots that might be negatively impacted by weather.

18: **The Quarry Commission has created a citizen blast report form** and has a personal follow up plan to contact citizens about their blast reports. We discuss each citizen report and assign a commission member to personally contact the citizen involved. We discuss each blast report at our open meetings.

19: **The Quarry Commission is serious about our blast follow up process**. We have had one instance where, by Federal Standards, damage may have been possible to structures. The timely filing of these reports is important if we are to follow up with Hanson and seek repairs. Even where damage is not reported or covered your Quarry Commission, by its very existence, constantly reinforces to Hanson the need to be "low impact"

20: The Quarry Commission has routinely encouraged Hanson to be responsive to **citizen blast damage complaints** and repair damage whenever possible. Hanson requested that each homeowner be contacted by the city's contracted blasting supervisor and that a full report be filed. Damage was, in some cases, repaired by Hanson.

21: **The Quarry Commission has written a letter to the State legislature** on the need for hard rock mining legislation. This letter was presented to the legislature by Mayor

Fiebleman. We encourage all citizens to be in contact with their legislators on this issue. There are NO regulations in Texas that control hard rock mining. This isn't likely to change without your input.

22: The Quarry Commission promoted and supported a meeting and tour at the Quarry with Senator Wentworth. This is another effort to bring to state legislators the importance of overseeing hard rock mining in Texas. Senator Wentworth is more engaged in this issue than most who currently serve us. Write to him.

23: The Quarry Commission promoted and supported a visit to Austin to meet with State officials on quarry operations and impact zones. We hope to do this again and would encourage all citizens who can attend to do so. More voices are better heard.

24: The Quarry Commission has been very aggressive in our reaction to blasts that go beyond the Federal Guidelines (3 times in the past 10 years, to Mar 2011). Both the Quarry Commission and the quarry believe once is too often. We will continue to press for zero errors.

25: The Quarry Commission has encouraged the employment of outside experts to report to the quarry commission on oversight, monitoring and blast impact mitigation techniques. Our newly proposed ordinance 34 will substantially raise the annual fees paid by the quarry. Some of this money will be used to pay qualified outside experts to assist the city in its quarry oversight responsibilities.

26: The Quarry Commission believes that blast face direction is important and has regularly encouraged the quarry to turn the face of the active mining site away from the homeowners in Garden Ridge whenever possible to help reduce blast impact, especially air over pressure.

27: The Quarry Commission has been successful in encouraging Hanson to continue its dialogue with the city in the face of citizen legal action. Many companies stop all contact when litigation occurs. This has been, on two occasions, the initial reaction of Hanson attorneys. Your Quarry Commission and local Hanson management has managed to push beyond these potential restrictions and continued our dialogue.

28: The Quarry Commission has successfully encourage Hanson to listen to the new techniques and technologies presented by Vibra-Tech, Austin Powder and outside experts without consideration to cost where possible. Hanson and Austin Powder have on numerous occasions brought to our attention costly techniques that, in the absence of your Quarry Commission, might have not have been used.

29: The Quarry Commission completed and forwarded to City Council its recommendation for an update to Ordinance 34. This process started in earnest in 2007 and was held up for about 18 months by citizen litigation. We have discussed this ordinance update in 60 public meetings. The old ordinance is meaningfully inadequate in protecting our properties.

30: The Quarry Commission is working on a Public Meeting that will cover the impact of quarry operations and Texas weather and soils on our homes. The Commission has held this type meeting in the past. It is our effort to better inform the citizens as to the Quarry and its operations.

31: The Quarry Commission is working on a Public Meeting with City Council to discuss and consider citizen input to Ord. 34. The Commission is interested in all feedback from citizens as we move forward.

Comparison of	Current Ordinance 34	Proposed Ordinance 34
Days / Hours for blasting	7 days/week / daylight hours	Weekdays / 9 am to 4:30 pm
Minimum distance from citizens' property	No limit	Minimum of 500 ft
Ground vibration (called peak particle velocity or PPV and is measured in inches/second)	2.0 in/sec considered safe with no provision made for frequency	70% of the USBM Z-Curve for plaster walls. 0.35 in/sec at critical frequencies (about 1/2 of the federal limit of 0.75 in/sec for sheetrock walls and 1/6 of the current Ord 34 limit)
Air Blast (also called air overpressure or airborne shock wave and is measured in decibels)	No limit	122 db (less than 1/2 of the federal limit of 133 db)
Air Quality (dust and air particulates) and Water Quality	Texas Commission on Environmental Quality and federal standards	Texas Commission on Environmental Quality and federal standards
Noise	The general provisions of City of Garden Ridge Ordinance 139-042007	85 dB and the general provisions of City of Garden Ridge Ordinance 139-042007
Fees to pay for third-party monitoring of blasts and other City-directed/requested actions	None assessed. Reliant on the benevolence of the quarry to provide funds to cover the cost of monitoring blasting. (Thus far, the quarry has willingly paid for third-party monitoring.)	Requires the blasting permit holder to cover the cost of third-party monitoring.
Penalties	Unenforceable	Fines of \$500/\$2,000/blasting permit revoked

YEAR	AVERAGE PPV (in/sec)	AVERAGE AO (dB)	AVERAGE MAX LBS/DELAY	AVERAGE DISTANCE (ft)	AVERAGE SCALED DIST	AVERAGE DISTANCE FROM WARDEN RESIDENCE	AVERAGE CHARGE WEIGHT ALLOWED USING 70 SD AT WARDEN RESIDENCE (AVG DIST/70)^2
2005	0.149	110.5	1,027.2	2,765.2	86.28	2,986.7	1,820.5
2006	0.122	110.0	676.3	3,326.5	127.92	2,937.6	1,761.1
2007	0.090	110.5	504.7	2,971.5	132.27	3,043.7	1,890.6
2008	0.118	110.1	399.9	2,895.8	144.81	2,560.3	1,337.8
2009	0.104	110.5	515.1	3,941.2	173.66	2,987.3	1,821.2
2010	0.087	112.1	629.5	3,736.1	148.91	3,039.1	1,884.9
2011	0.130	112.8	852.5	3,223.4	110.40	2,837.5	1,643.1



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
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DRAFT
MINUTES OF CITY COUNCIL REGULAR MEETING,
July 3, 2012

Members Present:

Mayor Feibelman
Councilmember Roberts
Councilman Britan
Councilman McCaw
Councilman Dalton

Member Absent:

Councilman Young

City Staff Present:

Nancy Cain, City Administrator
Royce Goddard, Public Works Director
Donna O'Conner, Police Chief
Shelley Goodwin, City Secretary

1. Call to Order

With a quorum of the City Council Members present, Mayor Feibelman called the regular meeting of the Garden Ridge City Council to order at 6:00 p.m. on Tuesday, July 3, 2012, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

2. Pledge of Allegiance

Mayor Feibelman lead the Pledge of Allegiance.

3. Citizen's Participation - 3 minute limit per citizen

Shelley Goodwin, City Secretary, read the Citizen's Participation.

1. *Paul Fletcher*, Attorney at Law spoke on behalf of Ed and Regina Ford. He provided the City Council handouts of documents which he feels should be used to improve the proposed Ordinance 34.
2. *Connie Cain*, 9967 Trophy Oaks Dr. Garden Ridge, requested that she be notified prior to any blasting. She stated that she has recently had back surgery (she showed City Council her xrays) and was recently on a step stool when a blast occurred. She stated the blast startled her and she could have fallen.

4. Minutes

The City Council may discuss, consider and/or take possible action on the following items:

a) June 6, 2012 Regular City Council Meeting Minutes

Motion: Upon a motion made by Councilmember Roberts and a second by Councilmember Britan to approve the June 6, 2012, Regular City Council Meeting with striking the first line on page 3, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

5. Business Items

The City Council may discuss, consider and/or take possible action on the following items:

a. Presentation by Citizens Review Committee regarding proposed Ordinance 34

Brian Lanzy, Chair of Citizen Review Committee, reported that originally there were 18 to 20 concerns with the proposed Ordinance 34, but he met with Mayor Feibelman, Russ Sanders, Bob Gunnarson and George Hyde, City Attorney. Mr. Hyde clarified most the concerns, but he still has some concerns with having higher blasting limits. He also stated he feels the amendments proposed by Councilmember Dalton are good amendments and feels they should be included in the proposed Ordinance 34.

b. Presentation by City Quarry Commission regarding proposed Ordinance 34

Bob Gunnarson, Chair of Quarry Commission, reviewed the differences between the current Ordinance 34 and the proposed amendments to Ordinance 34. Mr. Gunnarson stated he feels the proposed Ordinance is balanced and that Hanson can work with it.

Jerry Crowover, Vibro Tech, explained the blasting and pressures.

Jerry Warden, Quarry Commissioner, reported that since his home is the closest to the Quarry a monitor has been placed in his yard to record each blast. He also reported that the Quarry Commission has provided 10 years of good data from around the community and encouraged the City Council to refer to the data.

6. Public Hearing

The City Council will conduct a Public Hearing on the following:

Proposed amendments to City of Garden Ridge Ordinance 34 prohibiting blasting with the city limits; providing for limited exemption permit; establishing regulations pertaining to blasting; establishing criminal and civil penalties for violations; providing that this ordinance shall be cumulative; providing for severability; including a repealer clause; and declaring an effective date

George Hyde, City Attorney, reviewed the proposed amendments to Ordinance 34. (see attached ordinance with tracking).

Mayor Feibelman opened the public hearing at 6:44 p.m. and asked if anyone wished to speak.

1. Paul Fletcher, Attorney at Law for Ed and Regina Ford, expressed concerns regarding not using scaled distance, enforcement, timelines and the standards being used in the Ordinance. He also requested to display a powerpoint; City Attorney and City Council denied his request.

2. Ed Ford, 21360 Gunther Grove, reported he had damage to his house by a blast measured at .35PPV, which the City Council and Quarry chose not to pursue.
3. Regina Ford, 21360 Gunther Grove, expressed a concern that the proposed Ordinance 34 does not include landscaping; she is tired of staring out at a berm. She thanked the Citizen Review Commission for their hard work, but feels the citizens right are not being protected.
4. Jan Martin, 20418 Wahl Lane, reported she worked with Citizens Review Committee and helped with the research which was all submitted to the Quarry Commission. She also stated proposed Ordinance 34 that was sent out earlier today is a good compromise.
5. Richard White, 9814 Trophy Oaks, thanked everyone for working on Ordinance 34. He encouraged the City Council to use extreme judgment when adopting the proposed Ordinance.

Mayor Feibelman asked if anyone else wished to speak, no one did so Mayor Feibelman closed the public hearing at 7:30p.m.

7. Business Items continued

The City Council may discuss, consider and/or take possible action on the following items:

- c. **Ordinance 34-072012 of the City of Garden Ridge, Texas prohibiting blasting, within the city limits; providing for limited exemption permit; establishing regulations pertaining to blasting; establishing criminal and civil penalties for violations; providing that this ordinance shall be cumulative; providing for severability; including a repealer clause; and declaring an effective date**

George Hyde, City Attorney, went through the proposed amendment to Ordinance 34-072012, to clarify the City Council's concerns and to get consensus on issues previously discussed at the Joint Meeting and corrections provided by Councilmember Dalton.

- *Air blast* Joe Crownover, Vibra Tech, reported that using data is better than numbers. He stated Australian guidelines use numbers, but they have no buildings surrounding their blasting area.

Motion: Upon a motion made by Councilmember Roberts and a second by Councilmember Britan, to amend Section 6 1 c) i to read Air Blast shall not exceed 122dB as recorded by any monitor designated by the Regulatory Authority, the City Council voted three (3) for, one (1) opposed (Councilmember Dalton). The motion carried unanimously.

- *Ground vibration limit* George Hyde, City Attorney, reported the blasting company models their blast at .25, but there needs to be some comfort. Joe Crownover, Vibra Tech, explained that if they model at .25 then the blast will be quicker and the impact is not as long.

Motion: Upon a motion made by Councilmember Roberts and a second by Councilmember Britan, to amend Section 6 1 d) i to read Ground vibration shall not exceed the frequency based PPV limits of 70% of the USBM Z-Curve as recorded by any monitor designated by the Regulatory Authority, the City Council voted three (3) for, one (1) opposed (Councilmember Dalton). The motion carried unanimously.

Main Motion: Upon a motion made by Councilmember McCaw and a second by Councilmember Britan, to approve (with the consensus and amendment made during this item) the Ordinance 34-

072012 of the City of Garden Ridge, Texas prohibiting blasting, within the city limits; providing for limited exemption permit; establishing regulations pertaining to blasting; establishing criminal and civil penalties for violations; providing that this ordinance shall be cumulative; providing for severability; including a repealer clause; and declaring an effective date, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

d. Update and possible action on public safety concerns in the Wild Wind Unit 3 Subdivision of Garden Ridge, Texas and to include City of Garden Ridge v. Vordenbaum, Inc. D/B/A Bracken Rifle and Pistol Range, (Cause No. C2011-1647A, in the 22nd Judicial District Court)

Donna O'Conner, Police Chief, reported she has not received any new reports since the last City Council Meeting in June.

George Hyde, City Attorney, reported all documents have been submitted to the Texas Attorney General's Office and he is still waiting to hear back from them.

The City Council agreed by consensus to revisit this issue once the City Attorney hears back from the Office of the Texas Attorney General.

e. Planning and Zoning Commission recommendation on the Master Development Plan for the Forest of Garden Ridge IV subdivision consisting of approximately 103 residential lots and proposed subdivision located on the west side of Bat Cave Road northwest of its intersection with Schoenthal Road

Frank Dansby, Planning and Zoning Commissioner, read the recommendation of the Planning and Zoning Commission. He stated the Planning and Zoning Commission passed the recommendation of the Master Development Plan for Forest of Garden Ridge IV subdivision by a vote of four (4) for and one (1) opposed (Commissioner Owen). He stated this was approved with the notation that a road be constructed to the end of their property along the route shown for Tonkawa Pass in the City Master Transportation Plan. He also stated the Planning and Zoning Commission recommends that the City Master Transportation Plan be changed to reflect the new reality and the name Tonkawa Pass not used for any road within the subdivision.

Nancy Cain, City Administrator, reported originally the proposed subdivision was public streets and then it was changed to a gated subdivision.

George Weron, KFW Engineers, provided the City Council with a powerpoint (attached).

The City Council expressed concerns regarding:

- *Emergency exit* George Weron reported there are plans for a breakaway gate at Twisted Oaks to be used for emergencies.
- *Additional traffic on Bat Cave* The City Council requested the developer make an honest effort to contact adjacent property owners regarding a second entrance, to help with the flow of traffic.
- *Water issues* Garry Montgomery, River City Engineer-City Engineer, reported this subdivision is being developed in phases and there will need to be a 2nd water feed for Phases 2 and 3. He reported Phase 1 would connect a 12" waterline on Bat Cave Road.
- *Drainage issues* Garry Montgomery, River City Engineer-City Engineer, reported the retention pond will be constructed in Phase 1

Nancy Cain, City Administrator, recommended if the City Council approves this Master Development Plan that it is done on conceptual only. She stated because the ingress/from Bindseil's egress could change Phase 2.

Motion: Upon a motion made by Councilmember Britan and a second by Councilmember Roberts, to approve the Planning and Zoning Commission recommendation to approve the Master Development Plan for the Forest of Garden Ridge IV subdivision consisting of approximately 103 residential lots and proposed subdivision located on the west side of Bat Cave Road northwest of its intersection with Schoenthal Road with concept of the egress/ingress from Bindseil for Phase 2, the City Council voted three (3) for, none (0) opposed, and one (1) abstain (Councilmember Dalton). The motion carried unanimously.

f. City Water Commission recommendation to adopt a Policy concerning the leasing of water held by the City of Garden Ridge

Mayor Feibelman stated the City Water Commission recommended that the City Council adopt a Policy for leasing water held by the City. He also stated he feels the City needs this policy to help protect our water resources.

Motion: Upon a motion made by Councilmember Roberts and a second by Councilmember Britan, to approve the City Water Commission recommendation to adopt a Policy concerning the leasing of water held by the City of Garden Ridge, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

g. Ordinance 168-072012 of the City of Garden Ridge authorizing city employees to use golf carts on certain public streets; authorizing members of the public to use golf carts on certain public streets only when such use is in participation of the city sponsored annual 4th of July Parade; and providing for an effective date; repealer clause; preemption clause; severability; and proper notice and meeting

Donna O'Conner, Police Chief, reported the Texas Transportation Code Section 551.404 authorizes a municipality to authorize the operation of a golf carts on all or part of a public highway within their corporate boundaries of the municipality at the posted speed limit of not more than 35 miles per hour. She stated there is a risk to the health, safety and general welfare of the general public to use golf carts on public streets within the City limits unless it is the City sponsored July 4th parade. She reported there have been circumstances where the public is using golf carts and because they see the City using golf carts they feel they can as well, which she feels this Ordinance will help clarify this issue.

Motion: Upon a motion made by Councilmember McCaw and a second by Councilmember Britan, to approve the Ordinance 168-072012 of the City of Garden Ridge authorizing city employees to use golf carts on certain public streets; authorizing members of the public to use golf carts on certain public streets only when such use is in participation of the city sponsored annual 4th of July Parade; and providing for an effective date; repealer clause; preemption clause; severability; and proper notice and meeting, the City Council voted three (3) for, none (0) opposed, one (1) abstain (Councilmember Dalton). The motion carried unanimously.

h. Agreement incident to termination of the Community Infrastructure & Economic Development (CIED) Fund Program between the City of Garden Ridge and CPS Energy

Nancy Cain, City Administrator, reported this agreement is due to the termination of the Community Infrastructure and Economic Development Fund Program. She stated since the funds are being terminated the CIED Fund Balance will be disturbed on a quarterly basis.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Roberts, to approve Agreement incident to termination of the Community Infrastructure & Economic Development (CIED) Fund Program between the City of Garden Ridge and CPS Energy, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

i. Update on relocation of 12" water line beginning at the FM 3009/FM 2252 intersection and moving in a westerly direction along the north side of FM 3009 and in a southerly direction along the west side of FM 2252

Royce Goddard, Public Works Director, reported that the permits have been granted and work has begun at the intersection of FM 3009/FM 2252.

j. Update on 2010 Storm Water Master Plan for the City of Garden Ridge and as it relates to storm water drainage through the Hickory Bend drainage easement and the Arrowood Subdivision

Royce Goddard, Public Works Director, reported that a letter went out to the adjacent property owners along the drainage easements regarding the project and the moving of a fence. He also reported their will be a walk through with the contractor to mark the trees that need to be removed for the project.

k. Resolution No. 258-072012 through 273-072012 Government/Municipal/Public Funds Banking Resolution with American Bank of Texas deleting Russ Sanders and adding Joe Britan as authorized signator on all city accounts held at said bank

Nancy Cain, City Administrator, reported the Resolution No. 258-072012 through 273-072012 is to change the signature information at American Bank of Texas to reflect the change of Mayor Pro Tem.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Britan, to approve the Resolution No. 258-072012 through 273-072012 Government/Municipal/Public Funds Banking Resolution with American Bank of Texas deleting Russ Sanders and adding Joe Britan as authorized signator on all city accounts held at said bank, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

l. Approve or disapprove the Bexar Metro Fiscal Year 2013 Budget in accordance with provisions of the Texas Health & Safety Code, Chapter 772.309

Nancy Cain, City Administrator, reported the Bexar Metro 9-1-1 Network District has provided their proposed 2013 budget. She stated the City Council will need to approve or disapprove their proposed budget.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Britan, to approve the Bexar Metro Fiscal Year 2013 Budget in accordance with provisions of the Texas Health & Safety Code, Chapter 772.309, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

m. Approve or disapprove the 2013 Comal Appraisal District Budget in accordance with Section 6.06(b) of the Texas Property Code

Nancy Cain, City Administrator, reported the Comal Appraisal District has provided their proposed 2013 budget. She stated their budget reflects a \$140,000.00 increase from last year.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Britan, to approve the 2013 Comal Appraisal District Budget in accordance with Section 6.06(b) of the Texas Property Code, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

n. Ordinance 11-072012 establishing a comprehensive set of permit fees, service fees, and user fees designed for the health, safety and welfare of the residents of the City of Garden Ridge; providing a separate schedule of fees which outlines functions and activities which require a permit or have a service fee or have a user fee; providing for a penalty of a fine of not less than one hundred dollars (\$100.00), nor more than two thousand dollars (\$2,000.00) for each violation involving safety, zoning or public health; providing for a penalty of a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each violation not involving safety, zoning or health; providing for each day of continued violation of this ordinance being considered a separate violation; providing for a time limit for the validity of permits issued; providing a time limit for the validity of all licenses issued; and providing for severability and amending Ordinance 11-152008 passed and approved on May 7, 2008

Nancy Cain, City Administrator, reported amending Ordinance 11 will update City Document fees sections. Ms. Cain reported with the adoption of Ordinance 34 the Blasting Permit section will need to be amended to reflect what the City Council adopted earlier in the meeting.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Britan, to approve Ordinance 11-072012 establishing a comprehensive set of permit fees, service fees, and user fees designed for the health, safety and welfare of the residents of the City of Garden Ridge; providing a separate schedule of fees which outlines functions and activities which require a permit or have a service fee or have a user fee; providing for a penalty of a fine of not less than one hundred dollars (\$100.00), nor more than two thousand dollars (\$2,000.00) for each violation involving safety, zoning or public health; providing for a penalty of a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each violation not involving safety, zoning or health; providing for each day of continued violation of this ordinance being considered a separate violation; providing for a time limit for the validity of permits issued; providing a time limit for the validity of all licenses issued; and providing for severability and amending Ordinance 11-152008 passed and approved on May 7, 2008 with amendment to Section

III C. to reflect the blasting permits fees as laid out in Ordinance 34, the City Council voted four (4) for, none (0) opposed. The motion carried unanimously.

o. Letter of retirement from Garden Ridge Police Department Deputy Chief/Lt. Gary Johnson effective July 31, 2012

Donna O'Conner, Police Chief, reported Lt. Johnson submitted his resignation on June 25, 2012.

Motion: Upon a motion made by Councilmember Britan and a second by Councilmember McCaw, to approve Letter of Retirement from Garden Ridge Police Department Deputy Chief/Lt. Gary Johnson effective July 31, 2012, the City Council voted four (5) for, none (0) opposed. The motion carried unanimously.

9. State of the City

The City Council may discuss, consider and/or take possible action on the following items:

**a) Financial Statement and Investment Report
June 30, 2012
(Presentation at August 1, 2012 City Council Meeting)**

Nancy Cain, City Administrator, reported the June Financial Statements and Investment Reports will be available at the August 1, 2012 City Council Meeting.

**b) City Administrator Monthly Activity
Sign approvals since prior Council meeting
Community Center usage and financial report
Building Permits issued to date for residential, commercial and minor building projects
Update on new city website**

Nancy Cain, City Administrator, reported:

Sign approvals since the last Council meetings-

- Bracken United Methodist Church Vacation Bible School
- Garden Ridge Church of Christ Vacation Bible School

Community Center usage and financial report-

- Since the last report there have been 7 new events books.

Building Permits-

- 2 Major Permits and 16 Minor Permits which total revenue for the month is \$9981.76 and \$ 89,018.83 for the year.

Website- new website is live. She also reported Facebook and Twitter accounts are being set up.

**c) Public Works/Water Department Monthly Activity
Water pumping/usage from city wells
Water system infrastructure maintenance, repairs and/or projects
Public Works projects
Animal Control apprehensions, nuisance/complaints, animal bites**

Royce Goddard, Public Works/Water Director, reported:

June– 95.15 total acre feet from the Trinity Well were used and 14,153,000 pumped from Edwards Wells. For the year - 85.61 total acre feet from the Edwards Well have been used and 406.51 total acre feet from the Trinity Well have been used. Water system infrastructure maintenance, repairs and/projects- no new meters were installed, 12 meters replaced, 1 new service line installation and 2 leaks adjustments. Animal Control apprehensions, nuisance/complaints, animal bites- This report will be given at the August 1, 2012 City Council Meeting.

d) Police Department Monthly Activity

Citations issued

Warnings issued

Criminal activity within city

Code Compliance:

Citations issued

Warnings issued

Compliance achieved

Chief O'Conner reported in June the Police Department received 196 total calls, which 40 were code compliance violations. She reported there were 13 arrests, 6 accidents, 251 warnings and 128 citations.

e) Recognition of employees and/or city events

Nancy Cain, City Administrator, reported she received thank you for the Garden Ridge Police Department for helping to find a resident's dog who had gotten lose from a dog sitter.

Mayor Feibelman announced the City of Garden Ridge will begin the annual 4th of July festivities tomorrow morning at 10:00 with the flag raising ceremony and the parade immediately following.

Mayor Feibelman also announced the City of Garden Ridge's 40th Birthday is this week also all the citizens are invited to stop by City Hall on Friday for a piece of Birthday Cake.

Nancy Cain, City Administrator, reported August 7th from 7pm till 9pm the City will be hosting National Nite Out events at the Community Center.

f) Observations and activities of wildlife within the city

Mayor Feibelman reported to be careful while outdoors due to a large population of fawns.

g) Water and/or Drought Management

Royce Goddard, Public Works/Water Director, reported the City is currently in Stage 2 Drought Management.

h) Update on FM 3009 Construction Project

Mayor Feibelman report this was discussed earlier in the meeting.

10. Citizen's Participation – 3 minute limit per citizen

No one wished to speak.

11. 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:

**Northeast Partnership
City Water Commission
City Quarry Commission
Garden Ridge Police Academy Alumni Association
Cellular on Patrol
Garden Ridge Lion's Club**

Councilmember Britan reported the new Garden Ridge Lion's Club President is Andy Reliance.

12. Adjournment

There being no further business, the Tuesday, July 3, 2012 Garden Ridge City Council regular meeting was adjourned at 10:03pm by Mayor Feibelman.

Jay Feibelman
Mayor

ATTEST

Shelley Goodwin, TRMC
City Secretary

✓ = Spoke

SIGN IN CITY COUNCIL MEETING

DATE: 7-3-12

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 must request that if you wish to speak, that you follow these guidelines.
- Direct your comments to the entire Council, not to an individual member nor to the audience.
 - Show the City Council the same respect and courtesy that you expect to be shown to you.
 - Limit remarks to three (3) minutes.

Disclaimer:

Any disruptive behavior, including shouting or derogatory statements or comments, will 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.

NAME

ADDRESS

SUBJECT

✓ 1. Paul Flecken

745 E. Parkway #910, SATX

C, 7, 8(c)

2. ~~Bill Ford~~

31300 Greentown Drive

C, 7, 8

✓ 3. Bruce Lamm

9967 Toppy Oak Dr.

Boat

4. Richard White

9814 Toppy Oaks Dr

Quarry

5. Regina Ford

21360 Southman St

Quarry

6. Jan Martin

20418 Wahi Lane

Quarry/Blasts

7. ~~John~~ ~~Deary~~

21206 Stone Dr

Quarry/Blasts

8. ~~John~~ ~~Deary~~

9. _____

10. _____

**CITY OF GARDEN RIDGE, TEXAS
ORDINANCE 34-072012**

AN ORDINANCE OF THE CITY OF GARDEN RIDGE TEXAS PROHIBITING BLASTING, WITHIN THE CITY LIMITS; PROVIDING FOR LIMITED EXEMPTION PERMIT; ESTABLISHING REGULATIONS PERTAINING TO BLASTING; ESTABLISHING CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR SEVERABILITY; INCLUDING A REPEALER CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City Council finds it created the Quarry Commission of the City of Garden Ridge, Texas (hereafter the "Quarry Commission") to study and report on the operation of Excavation sites, Surface Mining Operations, and Blasting within and adjacent to the City of Garden Ridge, Texas;

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WHEREAS, the City Council finds the Regulatory Authority, through its Quarry Commission has extensively studied Excavation sites, Surface Mining Operations, and Blasting both generally and within and adjacent to the City of Garden Ridge and the related impact Excavation sites, Surface Mining Operations and Blasting has on property value, development, the economy, employment, property taxes and the public and communities who live and work adjacent to such operations;

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WHEREAS, the City Council finds the Regulatory Authority, through the Quarry Commission has received substantial local citizen input, substantial industry input, and has obtained advice and counsel from professional consultants in the industries related to and supporting Excavation sites, Surface Mining Operations, and Blasting, and its Quarry Commission developed recommendations presented to the City Council in the form of a local ordinance;

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WHEREAS, the City Council finds the Regulatory Authority, through its Quarry Commission held numerous public meetings, sought input from professionals in the industry and the community, and considered all the information provided and available to the Regulatory Authority, including historical information related to operation and impact of Excavation sites, Surface Mining Operations, and Blasting (including but not limited to the achievable level of performance for Blasting activities) over the last several years, and after significant, complex and detailed deliberations, has formulated and presented information demonstrating that the impacts from non-permitted Blasting, particularly Air Blast and ground vibration (as measured by Peak Particle Velocity) are a public nuisance and there is a need for the City Council to pass this Ordinance, exercising its general police power and powers to control nuisances to protect and preserve the health, safety and general welfare of the public in connection with Excavation sites, Surface Mining Operations and Blasting;

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WHEREAS, the City Council recognizes the related value of Excavation sites, Surface Mining Operations, and the ability to use Blasting techniques in certain development, demolition, and/or commercial activities;

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WHEREAS, the City Council finds this Ordinance is enacted to address the need to reasonably balance the Regulatory Authority's obligations of protecting property interests and public safety of all impacted by Blasting in the operation of Excavation sites, Surface Mining Operations and the use of Blasting techniques in certain development, demolition and generally within the Municipal Limits, with the rights of the public to expect and receive protection of their property values, their property, public safety, health & welfare interests, environmental concerns with respect to particulate air quality (dust), water quality and quarry operational noise, including the quality of life within the City of Garden Ridge, Texas;

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WHEREAS, the City Council finds the Quarry Commission presented comment for a proposed ordinance to the Planning & Zoning Commission to consider the land use elements of its recommendations to prohibit quarry operations that result in negative secondary impact on citizens' land use and to amend the Regulatory Authority's Zoning regulations;

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WHEREAS, the City Council finds the Regulatory Authority conducted all necessary public hearings and all other acts necessary and has met all conditions precedent to the adoption and enforcement of this Ordinance, including publication upon its passage;

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WHEREAS, the City Council finds that Excavation sites, Surface Mining Operations, and Blasting (including not only the use of Blasting for exploration and/or production and removal of Minerals, but for other development and construction related uses within the Municipal Limits) should be generally prohibited within the Municipal Limits, and only permitted otherwise under limited circumstances to be regulated by this Ordinance;

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WHEREAS, the City Council finds and adopts the attached Blasting data demonstrates and supports the Blasting regulations set forth in this Ordinance and do not infringe on the rights of and/or improperly infringe upon any land use, or unreasonably interfere with any reasonable investment backed expectations of existing property owners regulated by this Ordinance. (See Attachment A – Blasting Data)

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WHEREAS, the City Council finds the City of Garden Ridge, Texas possesses the police power of the state, which is delegated to cities by law, and hereby invokes such power to aid in the enforcement and the adoption this Ordinance.

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WHEREAS, the City Council finds that this Ordinance, when considered by any City Commission and the City Council has done so in full and complete compliance with the Texas Open Meetings Act at properly posted and conducted public meetings.

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

SECTION 1: CITY OF GARDEN RIDGE, ORDINANCE 34:

The City Council hereby revokes and repeals in its entirety the now existing Ordinance 34, and replaces it by the adoption of the regulations contained in this Ordinance which is effective upon adoption.

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SECTION 2: DEFINITIONS

All technical industry words or phrases related to Excavation sites, Surface Mining Operations, and Blasting not specifically defined in this Ordinance shall have the meanings customarily attributable thereto by prudent and reasonable persons in the field of Excavation, Surface Mining and Blasting unless otherwise provided in this Ordinance. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section.

Air Overpressure or Air Blast¹ is the airborne shock wave or acoustic transient generated by an explosion. As this air wave (measured in decibels (dBL)) contacts structures, it causes walls to vibrate.

Blasting¹ shall mean the firing of any Explosive Material that generates seismic waves and/or Air Blast. It does not include or apply to those explosives generally referred to as “fireworks”, which is governed under a separate ordinance.

City Council means the City Council of the City of Garden Ridge, Texas comprised of the five council members and the Mayor, unless contrary to Texas law.

City Hall means 9400 Municipal Parkway, Garden Ridge, Texas 78266.

Decibel shall mean a unit of sound pressure commonly used to measure Air Blast from explosives.

Excavation means the act of digging, mining or otherwise removing Minerals. This term does not include site grading or other site development activity that has been reviewed and/or authorized by the City of Garden Ridge; or site preparation activities on land that is the subject of a then applicable development permit or agreement with the City of Garden Ridge.

Deleted: Municipal Limits
Inserted: Municipal Limits

Explosive Material¹ is a term which includes, but is not necessarily limited to, dynamite and other high explosives, slurries, water gels, emulsions, blasting agents, black powder, pellet powder, initiating explosives, or any other similar Blasting materials used in Excavation activities, as well as any detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

¹ See generally ISEE (International Society of Explosive Engineers), Blasters Handbook 18th Edition 2011.

Flyrock means the fragments of rock thrown and scattered during quarry blasting.

Frequency refers to how many waves occur within a second, which is measured in Hertz.

Hertz is a term used to express the frequency of ground vibrations and Air Blast; one hertz is one cycle per second.

Minerals shall mean shall include coal, lignite, uranium, clay, sand, hard rock, soil or other substances of value (commercial or otherwise), from natural deposits on or in the earth.

Municipal Limits means the municipal limits of the City of Garden Ridge, Texas.

NOISE

Noise shall mean any undesired sound, especially a statistically random and persistent disturbance that provokes strong discomfort on the part of those people experiencing the noise.

Noise Level is the weighted sound pressure level called sound level.

dBA is the term used to measure noise and involves quantifying both the rate (frequency in Hz) and intensity (pressure) relative to normal atmospheric pressure. People do not perceive all frequencies with same sensitivity and are more responsive to higher frequencies. A dBA sound level measurement weighs the various frequency components of sound as perceived by the human ear in order to yield a single number indicator of its relative intensity.

Partial Exemption Permit means a permit issued from the Regulatory Authority, for a single event or for continuing operations, for a maximum term of twelve (12) months, or that remaining to the end of the Regulatory Authority's Fiscal Year, to be renewed annually from fiscal year to fiscal year, permitting a person to conduct Blasting activities otherwise prohibited by this Ordinance.

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Peak Particle Velocity (PPV)¹ the measure of the intensity of ground vibration, specifically the velocity of motion of the ground particles as they are excited by the wave energy.

Permit Holder means any Person that has obtained a Partial Exemption Permit from the Regulatory Authority.

Person means any individual, corporation, partnership, joint venture, trust, unincorporated association or other entity or any other judicial entity or government, state or agency or political sub-division thereof.

Deleted: Peak Particle Velocity (PPV)¹ the measure of the intensity of ground vibration, specifically the velocity of motion of the ground particles as they are excited by the wave energy.¶

Regulatory Authority shall mean the City of Garden Ridge, Texas.

Surface Mining means the mining of Minerals by Excavation or other commercial removal of the overburden lying above the natural deposit of Minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface.

Surface Mining Operation means those Surface Mining activities conducted at or near an Excavation site and concomitant with Surface Mining including extraction, storage, processing and shipping of minerals and reclamation of the land affected.

SECTION 3: BLASTING PROHIBITED.

All non-permitted Blasting within the Municipal Limits is a public nuisance and is prohibited.

Deleted: City's municipal limits

Any violation of any state or federal law, rule or regulation related to Blasting now in effect or in effect at the time of the violation is additionally prohibited by this Ordinance.

SECTION 4: SCOPE AND APPLICABILITY:

1. Nothing contained herein is intended to, nor shall it be interpreted to mean, that future action of the Regulatory Authority is in any manner regulated, affected or constrained through the terms of this Ordinance; rather, all Regulatory Authority operations are specifically exempted from the provision of this Ordinance.

SECTION 5: PARTIAL EXEMPTION PERMITS - BLASTING

The City Council may, by the issuance of a Partial Exemption Permit to the owner of property or his designee seeking a Partial Exemption Permit, allow the person to engage in an activity contrary to the prohibitions contained in this Ordinance upon a finding of the following conditions:

Deleted: of Garden Ridge, Texas

1. Partial Exemption Permits may be issued for Blasting. Such permits may be issued by the City Council upon the finding of a complete application for a Partial Exemption Permit to conduct Blasting within the Municipal Limits as provided by this Ordinance. All applications for Partial Exemption Permits must be in the form as provided in Attachment B.
2. The City Council shall evaluate all information pertinent to the Partial Exemption Permit request exercising reasonable discretion to ensure the aspects contained in the findings of this Ordinance are adequately being remediated by the applicant. If the City Council finds inadequate remediation, it may deny the application or move to authorize the City to mediate with the applicant before taking final action on the application. The City Council will endeavor to make a determination with

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regard to the Partial Exemption Permit within sixty (60) days of the receipt of the administratively complete petition. The decision of the City Council is final and not subject to appeal.

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3. Any Partial Exemption Permit otherwise approved by the City Council is not valid unless any and all conditions are met and all fees, including any payments for third party monitoring pursuant to Section 6(1)(h), are paid in full.
4. Blasting with a Partial Exemption Permit must be conducted pursuant to the limitations and conditions provided for such Blasting in this Ordinance.
5. All quarry blasting and surface mining operations are to be in strict compliance with any and all local, state and federal regulations and permits with respect to environment including air quality, water quality and noise pollution.

SECTION 6: REGULATIONS ON BLASTING WITH PERMIT

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1. All Blasting activity conducted by Partial Exemption Permit shall comply with the following regulations:

a) **Distance Requirements** - No blasting shall occur from either a distance of 500 feet from the nearest adjacent property line or the berm contour (for quarry operations) on the subject property from the nearest adjacent property line, whichever distance is greater unless the owner of the affected real property(s) issues written permission, which must be filed with the Regulatory Authority prior to the Blasting taking place, or the Permit Holder complies with Section 6(1)(c)(ii) and Section 6(1)(d)(ii). See Attachment D for berm contour coordinates.

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Comment: This is relocated to c) ii and d) ii - below

b) **Timing** - No Blasting shall occur on Saturdays, Sundays and legal holidays. Blasting operations shall only occur between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday. The Permit Holder shall notify the Regulatory Authority, or its designee, at least 10 minutes prior to and after each Blast. In the case of circumstances resulting in a potential danger to public safety requiring the detonation of explosives outside this time period, notification and approval of the detonation outside this time limitation may be obtained from either the Chief of Police or City Administrator of the City of Garden Ridge, Texas. Each request and determination made shall be reported to the Quarry Commission.

Deleted: If written permission from the affected property owner(s) is not obtained, a permit holder may request a variance to the minimum distance requirement from the Regulatory Authority

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c) **Air Blast Limit** –

i. Air Blast shall not exceed _____ as recorded by any monitor designated by the Regulatory Authority,

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ii. If written permission from the affected property owner(s) is not obtained pursuant to Section 6(1)(a), a Permit Holder may either

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(i) request a variance to the minimum distance requirement from the Regulatory Authority or (ii) Air Blast shall not exceed 110dB as recorded by any monitor designated by the Regulatory Authority.

d) Ground Vibration Limit –

- i. Ground vibration shall not exceed the frequency based PPV limit of ___% of the USBM Z-Curve as recorded by any monitor designated by the Regulatory Authority. See Attachment C.
- ii. If written permission from the affected property owner(s) is not obtained pursuant to Section 6(1)(a), a Permit Holder may either (i) request a variance to the minimum distance requirement from the Regulatory Authority or (ii) Ground vibration shall not exceed the frequency based PPV limit of 40% of the USBM Z-Curve as recorded by any monitor designated by the Regulatory Authority. See Attachment C.

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e) Air Particulate Limit – Air Particulates shall not exceed the lowest permissible limits as identified in any required state or federal permits obtained by the Permit Holder or its blaster. A copy of all such permits shall be filed with the Regulatory Authority upon any new or renewal application for Partial Exemption Permit(s).

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f) Noise Limit – Noise shall not exceed 85 dBA. Noise in excess of 85 dBA, when monitored at the designated property line or a residence, shall constitute a noise level that is deemed reasonably calculated to disturb the peace and unreasonably offensive to the public. This noise limit does not apply to Air Blast.

g) Flyrock control – Flyrock traveling in the air or along the ground shall not be cast from the Blasting site beyond the area under the control of the operator.

h) Third-Party Monitoring – all Blasting shall be monitored by a third-party selected by the Regulatory Authority and paid for by the Permit Holder to accumulate data with respect to the seismographic, frequency and Air Blast effects of said Blasting activities. Additionally in order to monitor environmental effects of blasting and surface mining operations with respect to particulate air quality and operational noise, monitor(s) may be utilized at designated locations to take air samples and record noise levels during Permit Holder's operations.

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- i. Single event blasting operations, such as pool excavations or basement excavations may be monitored at the discretion of the third-party consultant retained by the Regulatory Authority.
- ii. Any Blasting operations taking place beyond single events shall be regularly monitored and such monitoring shall be performed at a minimum of three and maximum of six different locations. Additionally one noise monitor and one air particulate monitor

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j) **Annual Fee** – Any Partial Exemption Permit issued is automatically revoked for lack of payment of the required fee, or for failure to comply with this section, including without limitation any required payments for third party monitoring pursuant to Section 6(1)(h). If the initial fee is not paid by the date the Partial Exemption Permit is issued and any subsequent renewal fee is not paid by the date of any subsequent renewal such revocation is automatic. If it is for the failure to comply with another provision of this section, a Permit Holder may obtain a 30 day extension upon request for Action at the next City Council meeting to discuss violation and request exemption from the revocation provision. If Permit Holder’s Partial Exemption Permit expires, there is no refund of any fee paid and the Permit Holder must re-apply for a new Partial Exemption Permit should they wish to continue or resume Blasting activities within the Municipal Limits.

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k) **Inspection of Records** – as a condition of the Partial Exemption Permit, any Permit Holder shall allow the Regulatory Authority’s designees to observe all Blasting activity to ensure compliance with this Ordinance and shall make all business records available for inspection to the Regulatory Authority, to the extent necessary to ensure compliance and enforcement of this Ordinance. Any request for records shall be fulfilled within 7 days of request. Failure to provide such access and/or inspection or records constitutes a voluntary surrender of any such Partial Exemption Permit effective upon the failure by the Permit Holder.

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l) Any real property owner who permits Blasting activities on their property in violation of this Ordinance violates this Ordinance and is held jointly and severally responsible for any such civil or criminal penalty, cost or fee, including attorney’s fees expended in the pursuit of enforcing this Ordinance.

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SECTION 7: ENFORCEMENT & INSPECTION

1. This Ordinance shall be enforced by the Regulatory Authority and its designated agencies or representatives through all means available by law.
2. The criminal provisions of this ordinance are abated until publication as required by law.

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SECTION 8: PENALTIES

1. Violation of any provision of this Ordinance is a Class C misdemeanor and upon conviction shall be punished by a fine of \$500 per occurrence pursuant to Texas Local Government Code §54.001(a).
2. Violation of any provision of this Ordinance that affects fire safety, zoning or public health and sanitation, including dumping of refuse shall be subject to a fine

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Comment: Shall requires the judge to fine \$500; may allows the Judge to asses a penalty up to \$500.

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Comment: Same as above

of \$2,000 upon conviction pursuant of Texas Local Government Code §54.001(b). Additional remedies and civil penalties may all be sought and assessed.

3. In the event any Permit Holder exceeds either the Air Blast or Ground Vibration limits set forth in Section 6(1)(c) and Section 6(1)(d) as recorded by any monitor designated by the Regulatory Authority (an "Excess Event"), three (3) times or more in any consecutive twelve (12) month period, such Permit Holder's Partial Exemption Permit(s) shall be automatically suspended as follows:

- a. Seven (7) calendar days immediately after the third Excess Event;
- b. Fourteen (14) calendar days immediately after the fourth Excess Event;
- c. Twenty one (21) calendar days immediately after the fifth Excess Event;
- d. Twenty eight (28) calendar days immediately after the sixth Excess Event and any subsequent Excess Events;
- e.
- f. Permit Holder shall be issued a written suspension notice by the Regulatory Authority, which shall set forth each Excess Event during a consecutive twelve (12) month period and the applicable suspension period. Permit Holder's failure to comply with the suspension notice constitutes a voluntary surrender of any such Partial Exemption Permit effective upon the failure by the Permit Holder. In the event any Permit Holder has six or more Excess Events in any consecutive twelve (12) month period, the Regulatory Authority may seek to revoke a Partial Exemption Permit pursuant to Section 8(8).

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g.
4. Each section of this Ordinance violated constitutes a separate violation and each day a violation occurs is a separate violation.

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5. The Regulatory Authority may immediately seek additional remedies at law, or in equity, to prevent or remedy a violation of this Ordinance.

6. Concurrent with any criminal prosecution, the Regulatory Authority may for any violation of this Ordinance, seek up to \$1,000 per day as a civil penalty for any violation of this Ordinance in addition to declaratory and injunctive relief in an action to enforce this Ordinance pursuant to Texas Local Government Code Chapter 54, as amended.

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7. The Regulatory Authority may immediately seek additional remedies at law, or in equity, to prevent Blasting by any party who does not have a Partial Exemption Permit or is to blast in violation of this Ordinance.

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8. The Regulatory Authority may revoke a Partial Exemption Permit where the Permit Holder has demonstrated a pattern of intentional or repeated non-administrative violations of this Ordinance.

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SECTION 9: SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part. In the event that changes are made to Texas Health & Safety Code §§ 342 or 343, or Texas Transportation Code § 683, the provisions of state law will govern in the event of a conflict.

SECTION 10: INTERIM COMPLIANCE PROCEDURES

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This interim compliance procedure provision shall be effective for 60 days from adoption of this ordinance, at which time it shall expire. During this interim period, any permit issued under the prior Ordinance 34 shall remain in effect so long as the Permit Holder is attempting to come into compliance with this Ordinance; however, any blasting activity must be conducted in compliance with this Ordinance. Any pending blasting application submitted before the adoption of this ordinance may be approved by the City Administrator provided the application and its content is in substantial compliance with the applicable provisions of this Ordinance. Any such interim approval shall expire upon the expiration of this 60 day interim period and is not subject to extension.

SECTION 11: NOTICE

The City Secretary for the City of Garden Ridge, Texas is hereby directed to publish notice of this Ordinance as required by the laws of the State of Texas.

Deleted: All former ordinances, including the prior Ordinance 34 is repealed and all other ordinances or parts of ordinances in conflict with any of the provisions of this ordinance Ordinance are hereby repealed insofar as the same is in conflict with the provisions hereof. ¶

Inserted: Ordinance

SECTION 12: FEES

All fees assessed in this Ordinance shall be determined by amending Ordinance No. 11 which is the Regulatory Authority's Fees ordinance and are subject to change without prior notice.

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SECTION 13: EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law. Any current permit holder to permit any such activities to come into compliance with this Ordinance.

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Deleted: The prohibitions against Blasting contained herein shall not be enforceable for a period of sixty (960) days (during which time the predecessor Ordinance 34 will remain in effect),

Inserted: sixty (

Inserted: 6

Inserted:)

Passed and approved this ___ day of _____ 2012.

Jay F. Feibelman, Mayor

Attest:

Shelley Goodwin, City Secretary

Exhibit 1

Henry Garick, Chairman
Larry A. Samsel, General Counsel
Deann W. Shaw, P.H.D., Commissioner
Cliff S. Shankle, Executive Director

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protection of the Public Health and the Environment

February 27, 2008

Mr. Carlos Sandoval,
Laredo WFG Development, Ltd.
3618 Business Stone Suite 100
San Antonio, Texas 78258

RE: **Edwards Aquifer, Comal County**
NAME OF PROJECT: Forest at Garden Ridge Unit IV, Located on Bst Gray Road near the intersection of Schoenfeld Road, Garden Ridge and San Antonio (L1), Texas
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP), 20 Texas Administrative Code (TAC) Chapter 27A, Edwards Aquifer
Edwards Aquifer Protection Program ID No. 2753.00; Investigation No. 614195; Regulated Entity No. 2N10559037

Dear Mr. Sandoval:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP application for the above-referenced project submitted to the San Antonio Regional Office by Jacobs Carter Burgess, Inc. on behalf of Laredo WFG Development, Ltd. on January 8, 2008. Final review of the WPAP was completed after additional material was received on February 19, 2008 and February 21, 2008. As presented to the TCEQ, the Temporary Best Management Practices (BMPs) and construction plans were prepared by a Texas Licensed Professional Engineer to be in general compliance with the requirements of 30 TAC Chapter 2.3. These planning materials were sealed, signed and dated by a Texas Licensed Professional Engineer. Therefore, based on the engineer's certification of compliance, the planning materials for construction of the proposed project and pollution abatement measures are hereby approved subject to applicable state rules and the conditions in this letter. The applicant or a person affected may file with the chief clerk a notice for transmission of the construction director's final action on this Edwards Aquifer Protection Plan. A notice for reconsideration may be filed no later than 20 days after the date of this approval letter. This approval expires one (1) year from the date of this letter unless, prior to the expiration date, more than 10 percent of the construction has commenced on the project or an extension of time has been requested.

PROJECT DESCRIPTION

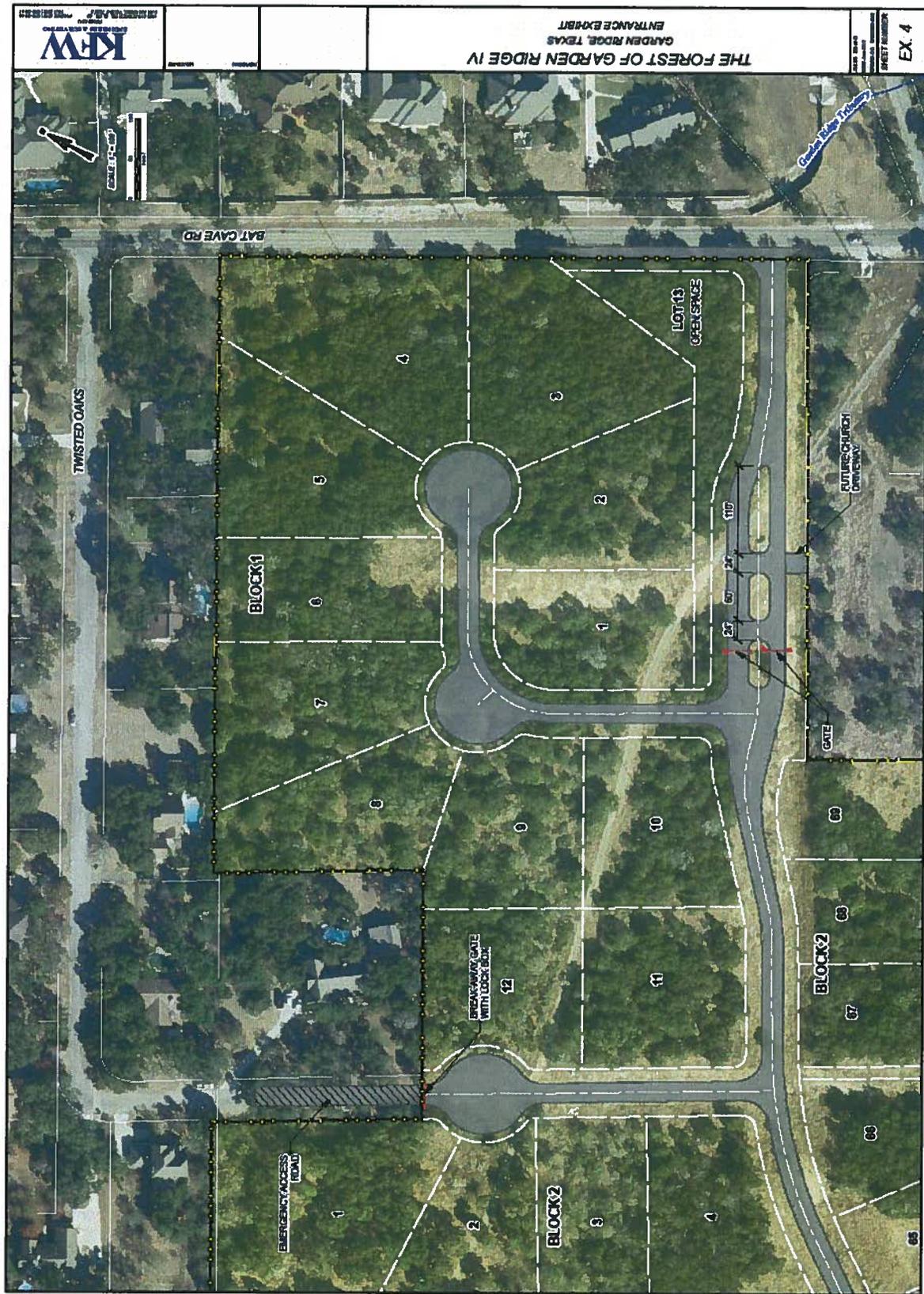
This proposed single family residential project will have an area of approximately 102.1 acres. It will include approximately 103 lots, with swimming pools, utilities, and infrastructure. The impervious area will be 15.83 acres (17.6%). Project wastewater will be disposed of by on-site sewage facilities. According to a letter dated December 31, 2007, signed by Robert Boyce, P.E., with Comal County, the site in the development is acceptable for the use of on-site sewage facilities.

5000 North Meador St. • 14250 Judds Hill • San Antonio, Texas 78253-3880 • 210-493-7030 • Fax 210-506-4720
P.O. Box 20857 • Austin, Texas 78711-2087 • 512-425-1800 • Internet address: www.tceq.state.tx.us

Exhibit 2



Exhibit 4



KFW
KENTON F. WILSON
REGISTERED ARCHITECT
NO. 123456789
STATE OF TEXAS

THE FOREST OF GARDEN RIDGE IV
GARDEN RIDGE, TEXAS
ENTRANCE EXHIBIT

DATE: 01/15/2024
SHEET NUMBER: **EX. 4**

Exhibit 5

0490 070523
 Prepared by the State Dept. of Taxation and Finance on 07/05/23
 1-178. Revised to include vendor's address (all 4224, 8001, 1941). ISSUED 29 JUL 1958

WARRANTY DEED WITH VENDORS LIEN
 275985
 11/2/58

KNOW ALL MEN BY THESE PRESENTS
 THE STATE OF TEXAS
 COUNTY OF CROSSLAND

That WE, ALANOR WEDDER and husband, MERVIN WEDDER,
 of the County of CROSSLAND and State of TEXAS
 conveyance of the sum of ONE AND 20/100 DOLLARS

and other valuable consideration in the underigned deed by the grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by us herein named of this deed of even date herewith see 815,000.00, payable to ALANOR WEDDER the husband, MERVIN WEDDER, decedent's estate, as hereby provided;

the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a deed of trust of even date herewith to CECIL E. WALKER TRUSTEE;
 NOW GRANTED, SIGNED AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto
 of the County of CROSSLAND and State of TEXAS, all of the (hereby described real property in CROSSLAND County, Texas, to-wit:

87443

Exhibit 6

05/14/2012 14:11 FAX: (210) 651-5767

Page: 1 of 1



EXHIBIT 6

BRACKEN VOLUNTEER FIRE DEPARTMENT

(210) 651-5762
23600 FM 3009 - SAN ANTONIO, TX 78266

05/14/2012

City of Garden Ridge
Planning and Zoning

Regarding: Forest of Garden Ridge IV Master Plan

After discussing the subdivision's Street Master Plan with Bert Wellman it is the fire department's recommendation that the intersections be constructed with 30' interior radius corners to ensure that our apparatus can maneuver through the subdivision with traffic and/or street parking due to the street widths.

We also recommend that an emergency access route be provided off of Twisted Oaks to provide secondary access to the subdivision in the event the main entrance is unusable.

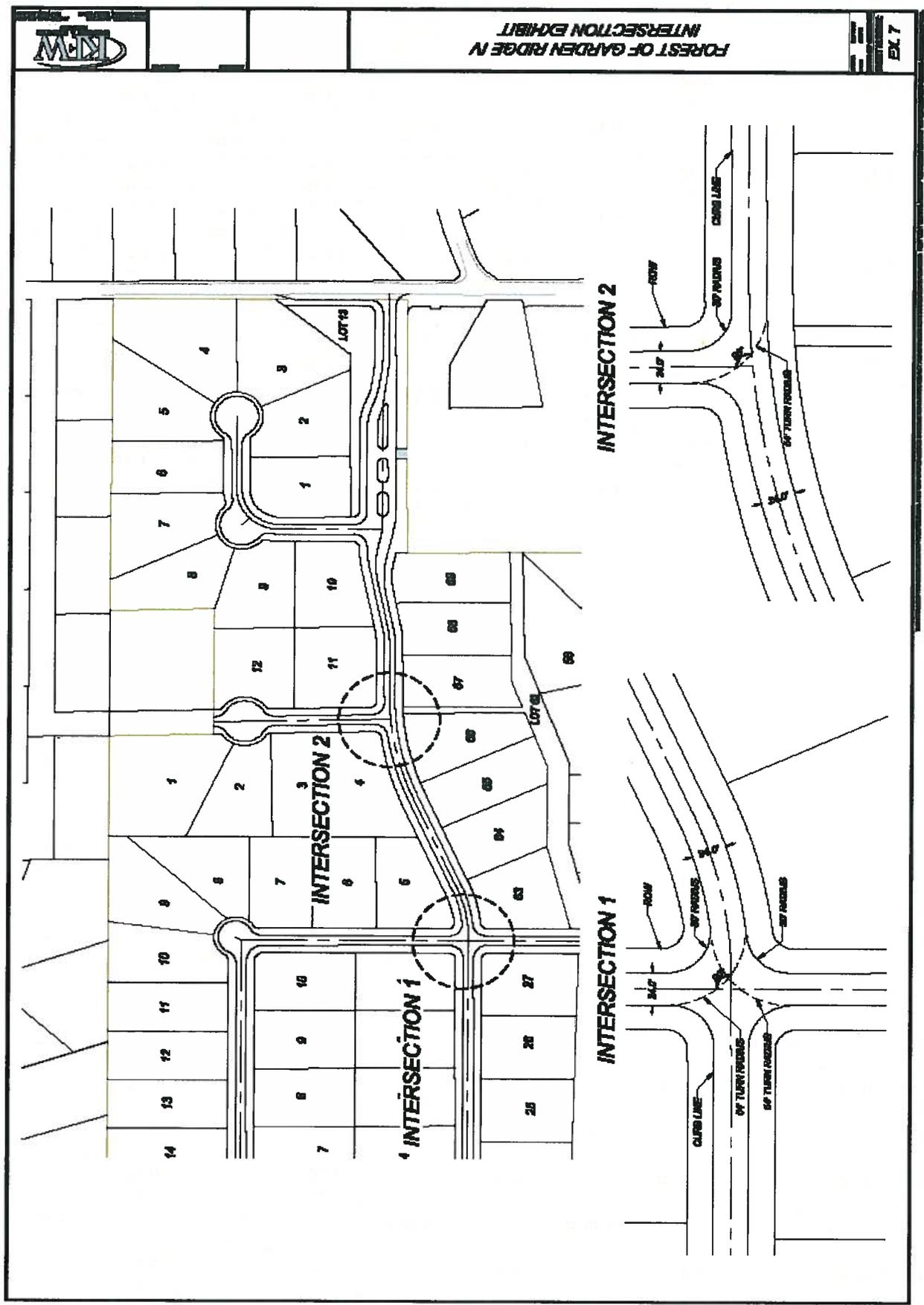
If you have any questions or comments, please call me.

Best regards,

William J. Amz
Assistant Chief

cc: Bert Wellman, K&W Engineers

Exhibit 7



FOREST OF GARDEN RIDGE N
INTERSECTION EXHIBIT

EX. 7

Small text at the bottom right corner, likely a scale or reference note.



City of Garden Ridge

9400 Municipal Parkway
Garden Ridge, Texas 78266-2600
(210) 651-6632
Fax (210) 651-9638

MINUTES OF CITY COUNCIL SPECIAL MEETING, July 17, 2012

Members Present:

Mayor Feibelman
Mayor Pro-Tem Britan
Councilman Roberts
Councilman McCaw
Councilman Dalton
Councilman Young

Member Absent:

None

City Staff Present:

Nancy Cain, City Administrator
Shelley Goodwin, City Secretary

1. **Call to Order**

With a quorum of the City Council Members present, Mayor Feibelman called the special meeting of the Garden Ridge City Council to order at 6:30 p.m. on Tuesday, July 17, 2012, in the City Council Chambers of the Garden Ridge City Hall, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

2. **Citizen's Participation- 3 minute limit per citizen:**

No one wished to speak.

3. **The City Council may discuss, consider and/or take possible action on the following items:**

Resolution 274-072012 to formally establish and recognize the City of Garden Ridge Library

Mayor Feibelman stated the Library is working on becoming accredited and after researching City documents it was discovered that the Library was never formally established. He stated by adopting this Resolution the City of Garden Ridge Library will be formally recognized as a department of the City since January 14, 1998.

Motion: Upon a motion made by Councilmember Dalton and a second by Councilmember Britan for the approval of Resolution 274-072012 to formally establish and recognize the City of Garden Ridge Library, the City Council voted five (5) for, none (0) opposed. The motion carried.

4. Citizen Comments

No comments were received.

5. Adjournment

There being no further business, the Tuesday, July 17, 2012 Garden Ridge City Council special meeting was adjourned at 6:35pm by Mayor Feibelman.

Jay Feibelman
Mayor

ATTEST

Shelley Goodwin, TRMC
City Secretary

July 25, 2012

To: Mayor Feibelman and City Council

From: City Administrator Cain

Your City Council packet does not contain recommendations from the Water Commission on agenda items b6.b-f. Due to a lack of a quorum the Water Commission meeting scheduled for July 24, 2012 was rescheduled to July 30, 2012. The agenda items were placed on the City Council agenda in case the Commission has recommendations to move forward. Any recommendations made will be presented at the Council meeting.



July 18, 2012

Ms. Nancy Cain, City Administrator
City of Garden Ridge
9400 Municipal Parkway
Garden Ridge, TX 78266

Dear Ms. Cain,

Bexar Waste is greatly appreciative and thankful for the patronage of the City of Garden Ridge. We are most proud to be your local Solid Waste Contractor.

Per our recent conversation, we hereby propose and request an amendment to Garden Ridge City Ordinance #143-32008, the ordinance which authorizes our Solid Waste and Recycling Services agreement.

Specifically, the requested amendment is in Section No. 3, Term of Contract. Currently, the contract is terminating on March 31, 2013; provided, however this contract may be extended after said five (5) year period for successive one-year periods thereafter upon the express mutual consent of the Garden Ridge City Council and Bexar Waste and the passage of an ordinance declaring the period of extension. Notwithstanding any other provision in this contract, the City of Garden Ridge may terminate this contract, with or without cause, with 120 days written notice.

We now request your sincere consideration of amending the ordinance to extend the Term of Contract for an additional (5) five year period following March 31, 2013, thereby terminating the amended agreement on March 31, 2018.

In addition, beyond the March 31, 2018 date, the Garden Ridge City Council, at its desire, with Bexar Waste in agreement, could then begin successive one-year period extension approvals.

A longer term commitment to Bexar Waste from a major municipal revenue source like the City of Garden Ridge is extremely helpful to us in our efforts to secure new equipment as needed. New, well maintained and dependable equipment is an **expensive major element** in providing excellent services and in accommodating future needs in the City of Garden Ridge.

All rates in effect during 2012 will continue in full effect through the entirety of 2013. Bexar Waste will always make every effort to provide the find City of Garden Ridge with excellent and timely services at very competitive rates.

Please contact me at an early convenience for questions or for a meeting if discussion is needed.

Sincerely,

A handwritten signature in cursive script that reads "Henry Gutierrez".

Henry Gutierrez
Owner/Operator

ORDINANCE 143-082012

AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE AGREEMENT BETWEEN THE CITY OF GARDEN RIDGE, TEXAS AND BEXAR WASTE, FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLING SERVICE, AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT, SETTING FORTH GENERAL SPECIFICATIONS ESTABLISHING RATES FOR COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLING SERVICE, PROVIDING FOR THE COLLECTION OF ESTABLISHED RATES AND PROVIDING FOR ENFORCEMENT AND PRESCRIBING A PENALTY OF A FINE OF NOT LESS THAN \$100.00 NOR MORE THAN \$500.00 AND MAKING EACH DAY A SEPARATE OFFENSE.

WHEREAS, the City of Garden Ridge has the responsibility to provide for the health and welfare of its citizens; and

WHEREAS, the City Council of the City of Garden Ridge has determined that it is in the public interest of said City and its citizens to grant an exclusive franchise to Bexar Waste, to provide for the satisfactory and efficient collection removal, and disposal of solid waste and recyclable materials so as to maintain safe and sanitary conditions within Garden Ridge; and

WHEREAS, it has been, and is, determined by the City Council of the City of Garden Ridge to be in the best-interest and necessary to preserve and protect the public health of all citizens of said City.

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

1. That all previous ordinances, resolutions and agreements and amendments thereto regarding and granting permission for the collection, removal and disposal of solid waste and recyclable materials within the City of Garden Ridge are hereby superseded effective on the date this Ordinance is effective and in force as described in "Term of Contract" below, after it is passed and approved by the City Council of Garden Ridge.
2. **Parties:** The parties to this Contract are the CITY OF GARDEN RIDGE, TEXAS (hereinafter call "City") and Bexar Waste, (hereinafter called "Contractor").
3. **Term of Contract:** This contract shall become effective and in force as of the 1st day of April, 2008, and terminating on March 31, ~~2013~~ 2018; provided, however this contract may be extended after said ~~five (5)~~ ten (10) year period for successive one-year periods thereafter upon the express mutual consent of the Garden Ridge City Council and Bexar Waste and the passage of an ordinance declaring the period of extension. Notwithstanding any other provision in this contact, the City of Garden Ridge may terminate this contract, with or without cause, with 120 days written notice.
4. **Grant of Authority:** There is hereby granted by the City to Contractor the exclusive right and privilege to operate and maintain within the City of Garden Ridge a service for the collection and removal of garbage, trash, brush and other items intended to be discarded, (hereinafter called "solid waste"), and recyclable materials. The right and privilege granted in this contract for the purpose set forth above shall be exclusive and no other contractor, person, or corporation shall be permitted to engage in garbage collection or recycling service from residential, commercial or industrial generators, within the City during the term of this franchise. Collection and removal of construction debris is included in this exclusive grant of authority.

5. **Compliance with Laws and Ordinances:** Contractor shall, at all times during the terms of this contract, be subject to all such reasonable regulations as the City may hereafter provide. In addition, Contractor shall observe all state and federal laws, rules and regulations relevant to collection, removal and disposal of solid waste.
6. **Definitions:** The following definitions shall apply with respect to this ordinance and franchise contract:
 - A. **Bags:** Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by top. Total weight of a bag shall not exceed 35 pounds.
 - B. **Bulky Waste:** Stoves, refrigerators (freon must be removed), water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, brush, yard waste, hazardous waste or stable matter with weights or volumes greater than those allowed for containers.
 - C. **Bundle:** Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length and 35 pounds in weight.
 - D. **Construction Debris:** Waste building materials resulting from construction, remodeling, repair or demolition operations.
 - E. **Container:** A receptacle with a capacity of greater than 20 gallons but less than 35 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight fitting lid capable of preventing entrance into the containers by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 35 pounds.
 - F. **Dead Animals:** Animals or portions thereof equal to or greater than 20 pounds in weight that have expired from any cause, except those slaughtered or killed for human use. Farm and ranch animals are excluded.
 - G. **Disposal Site:** A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of refuse and dead animals by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.
 - H. **Garbage:** Any and all dead animals equal to or greater than 20 pounds in weight except those slaughtered for human consumption and excluding farm and ranch animals; every accumulation of waste (animal, vegetation, household and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste, animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Hazardous Waste, Rubbish, or Stable Matter.
 - I. **Hazardous Waste:** Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to Federal or state law.

- J. Producer: An occupant of a Residential Unit or Commercial Unit who generates refuse.
 - K. Refuse: This term shall refer to Residential Refuse and Bulky Waste, Construction Debris, and Stable Matter generated at a Residential Unit unless the context otherwise requires.
 - L. Residential Refuse: All garbage and rubbish generated by a producer at a residential unit.
 - M. Residential Unit: A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than one family. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto.
 - N. Rubbish: All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees, or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packing or wrapping crockery and glass, ashes cinders, floor sweepings, glass mineral or metallic substances, and any and all other waste materials not included in the definitions of Bulky Waste, Construction Debris, Dead Animals, Garbage, Hazardous Waste or Stable Matter.
 - O. Stable Matter: All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.
 - P. Commercial Container: Metal receptacle designed to be lifted and emptied mechanically for use at Commercial and Industrial Units.
 - Q. Commercial and Industrial Unit: All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the City, which is not a Residential Unit.
 - R. Recyclable Material: Any and all materials as the parties may agree in writing (i.e., newspaper, glass, aluminum cans, and plastic)
 - S. Recycling Container: A rigid plastic container with a capacity of approximately eighteen (18) gallon used to facilitate curbside recycling.
7. **Applicability of Service**: Garbage collection service is mandatory for all residences and places of business within the City excepting those residences located on farms and ranches (ten (10) or more acres) where farming and ranching operations are being conducted.
8. **Responsibilities of Contractor**:
- A. Hold Harmless: The Contractor will indemnify, save harmless, defend and exempt the City, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney's fees incident to any work done in the performance of this Contract, arising out of a willful or *negligent act* or omission of the Contractor, its officers, agents, servants and employees; provided however, that the Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney's fees arising out of a willful or negligent act or omission of the City, its officers, agents, servants and employees.

B. Insurance: The Contractor shall at all times during the Contract maintain in full force and affect Employer's Liability, Workmen's Compensation, Public Liability and Property Damage Insurance, including contractual liability coverage as provided for herein. All insurance shall be by insurers and for policy limits acceptable to the City and before commencement of work hereunder the Contractor agrees to furnish the City certificates of insurance or other evidence satisfactory to the City to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligation:

This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given to the certificate holder.

For the purpose of the Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
Workmen's Compensation	Statutory
Employer's Liability	\$1,000,000
Bodily Injury Liability	\$1,000,000 each occurrence
Except Automobile	\$2,000,000 aggregate
Property Damage Liability	\$1,000,000 each occurrence
Except Automobile	\$1,000,000 each occurrence
Automobile Bodily Injury Liability	\$1,000,000 each person \$2,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

The coverage's may be provided by the Contractor's parent corporation and the City of Garden ridge shall be named as an "additional insured."

- C. Licenses: The Contractor shall obtain all licenses and permits (other than the license and permit granted by the Contract) necessary to perform the services required of Contractor by this ordinance.
- D. Equipment: The Contractor shall maintain and operate its collection system and equipment in order to render competent and efficient service subject to the terms of this Contract. All equipment, including motor vehicles and trucks necessary for the performance of this franchise shall, be in good condition and repair. The trucks used in collection of garbage shall be all metal, with completely enclosed "packer" type bodies that are designed and manufactured for the collection of garbage and rubbish. Said collection vehicles shall be painted and numbered and shall have Contractor's name and telephone number painted in letters of a contrasting color on each side of the vehicle in a size and type so as to be easily readable from a distance of 50 feet. All vehicles shall be

kept in a clean and sanitary condition and shall be cleaned inside and outside at least once each week. Contractor shall furnish the City with a list of the type, model, and age of the equipment to be utilized for servicing Garden Ridge.

A standby vehicle shall always be available.

9. **Service Required of Contractor:** The Contractor shall provide, at a minimum, the following services within the corporate limits of the City of Garden Ridge, Texas.

A. Residential Service

- (1) Contractor shall provide collection service for the collection of residential garbage (except bulky waste) to each Residential Unit two (2) times per week on either Monday and Thursday or Tuesday and Friday depending on section of city residence is located.
- (2) Such collection services must be provided between the hours of 7:00 A.M. and 8:00 P.M.
- (3) Contractor will furnish curbside pickup of grass, leaves, and other similar residential yard-grown refuse on regular pickup days placed in plastic bags not exceeding 35 pounds in weight or placed in garbage cans. Trees, brush, shrubbery and the like to be picked up with garbage, subject to the quantity limitations hereinabove set forth, shall be cut and tied in bundles of not more than four feet in length and 35 pounds in weight each, if the same is not place in garbage cans.
- (4) Contractor will furnish curbside pickup of recyclable material one day each week on the second pick up day of the week depending on the section of city residence is located. A schedule indicating each date of recycling pick up for the calendar year will be determined and agreed upon by the City and the Contractor prior to the beginning of the new calendar year. The City shall distribute the recycling calendar to all residents of the City.

The contractor will also provide a contractor-owned 18-gallon recycling bin to each residence. All proceeds from the marketing of recyclables will be returned to the City. Residents shall not be limited to recycle what the bin will hold. The resident may place additional recyclable material beside the recycling bin in a garbage can or in bags, and must be designated as recyclable material. Recyclable material will include newspaper, aluminum, tin, plastic and glass. The Contractor will provide the City with a list of allowable recyclable materials annually and must provide an updated list of recyclable materials as deletions or additions are made to the list of recyclables. Contractor shall pickup curbside recyclables, with the exception that citizens may participate in other governmental sponsored recycle activities.

- (5) In the event that a resident may desire pick-up of excessive or unusual items, or service not contemplated by the ordinance, such resident should make independent arrangements with the Contractor. Contractor shall have no obligation whatsoever to collect Hazardous Waste, Infectious Waste or Special Waste.
- (6) A schedule of costs for residential solid waste collection and recycling are attached as **Exhibit A**.

B. Commercial Service

All commercial establishments and business operations in the City are required to have solid waste collection and disposal service. Commercial service is available for either "hand pick up" or by commercial or industrial containers. All commercial or industrial containers will be supplied by the Contractor. Each commercial establishment and business operation is responsible for insuring that the size of container and number of times of service are adequate to meet the solid waste collection needs of the business and to assure that no "overflow" situations occur.

The schedule of costs for commercial hand pickups, commercial or industrial containers for solid waste collection for commercial and business operations in the City are attached as **Exhibit A**.

C. Construction Debris

Debris from lot clearing and construction operations, rock, brush, tree limbs, waste, scrap, building materials, or other trash resulting from construction or major remodeling, resulting from a general cleanup of vacant or improved property just prior to its occupancy, or resulting from sizeable amounts of trees, brush and debris cleared from property in preparation for construction, or the remodeling of residence, will not be removed as a part of a regular service. Builder/contractors must contract with Bexar Waste. Collection and disposal of construction debris is included as part of the exclusive grant of authority to Contractor under this agreement. Contractor (Bexar Waste) will bill owner for services, pay the City a 5% franchise fee for each previous month's collection for such services and provide the City with documented support information for work performed.

D. Other Provisions

- (1) Contractor will provide removal of dead animals (regardless of weight or size) from the right-of-way without charge to the City. Contractor must pick up dead animals reported by the City on the days service is provided in the City, or sooner.
- (2) Contractor shall provide regularly scheduled garbage collection sufficient to avoid unhealthy or unsightly accumulation to all City facilities free of charge.
- (3) Contractor will provide at no charge to the City, a sufficient number of roll-off containers at a location designated by the City for disposal of brush, tree cuttings and yard waste disposal six times per calendar year. Four of these times will be for a nine day period to include two weekends and the other two times will be designated as Spring and Fall Cleanups, respectively, and will be for sixteen day periods to include three weekends. Contractors and commercial establishments are excluded from this service. Scheduling of the six designated times per year will be agreed to between the Contractor and the City. The City shall call for pulls when needed during each period, there will not be a charge for the pulls and the container will be simultaneously replaced as necessary.
- (4) Contractor shall provide roll-off containers for emergency waste removal, such as storm damage in sufficient number and on demand by City without charge.
- (5) Contractor shall provide containers for City-sponsored events without charge.
- (6) Contractor shall discontinue garbage collection service at any residential unit upon written notice from the City. Upon further notification by the City the

Contractor shall resume collection on the next regularly scheduled collection day. City shall be solely responsible for any claims, suits, damages, liabilities or expenses resulting from Contractor's discontinuance of service at any location at the direction of the City as long as the Contractor is without responsibility and following the specific instructions of the City.

(9) In the event the Contractor for any reason after being notified by telephone shall fail to make any garbage pickup or collection; then the City, without further notice, may cause the same to be picked up and disposed of and shall deduct or bill to the Contractor the charges therefore.

(10) Contractor shall maintain an office through which it may be contacted. It shall be staffed with sufficient competent personnel to handle calls and inquiries from 8:00 a.m. to 5:00 p.m., Monday through Friday and from 8:00 a.m. to 12:00 p.m. on Saturdays.

E. **Holiday Schedule:**

The following holidays will be observed by the Contractor and services will not be furnished on these days:

New Year's Day (January 1)
Independence Day (July 4)
Thanksgiving Day (Last Thursday in November)
Christmas Day (December 25)

If garbage collection day falls on one of the above holidays, then garbage pickup will be made on the next scheduled pick-up day for customers following the holiday. Recyclable material would be picked up on the next regular collection day.

10. **Disposal of Garbage and Refuse:** Contractor shall have the responsibility of the disposal of all refuse and garbage collected under this agreement and all of said materials shall be disposed of in compliance with the laws of the Federal Government and State of Texas and/or the rules, regulations and standards established or to be established by the Federal Government and the Texas Commission on Environmental Quality.

11. **Responsibilities of City:** City shall have the following responsibilities under this franchise contract:

A. To advise Contractor monthly of any additions or deletions to the list of residential, commercial and industrial units from whom collections are made or to be made.

B. To notify Contractor of any complaints regarding Contractor's services under this agreement.

12. **Responsibilities of Customer:**

Location of Containers, Bags and Bundles for Collection: Garbage container, bags and bundles must be placed at curbside locations for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Garbage container, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, garbage containers, bags and bundles shall be placed as close as practicable to an access point for the collection vehicle. All dead animals less than forty (40) pounds must be doubled bagged and placed at curbside. Contractor is not responsible for pickup of farm and ranch properties.

Contractor may decline to collect any garbage container, bag and bundle not so placed or any

Residential Garbage not in a garbage container, bag or bundle.

13. Rates, Collection, Payment:

- A. Rates for collection services are attached in Exhibit A. Annual rate adjustment for CPI as warranted by economic conditions may be assessed the second and subsequent years of the contract for all services as a whole. Contractor shall give ninety days (90) notice of such rate adjustment.
- B. In addition to Section 13 A above, Contractor may petition the City for a rate adjustment after sixty (60) days written notice to the City. The notice and petition must include specific and detailed documentary support for the requested adjustment and support for any amount proposed which increases the expenses paid for the services provided under this contract and include whether a denial of the proposed increase would result in the termination of this contract by Contractor. The petition's support shall include any and all documents, including revised laws, ordinances, regulations or landfill operator dumping fees that impact the costs of the provided services. Contractor shall be entitled to "pass through" any taxes, fees or other impositions of any governmental, regulatory entity or landfill operator dumping fees placed upon or charged against the business or activity of collection and disposal of solid waste only to the extent that the costs are in addition to the customary and usual expenses of doing business by Contractor. Should the City reject Contractor's petition for rate adjustment, Contractor is required to continue providing services for a period of 120 days, after providing written notice of intent to terminate this contract to the City. This provision does not prohibit the City and the Contractor to negotiate new or different services to offset any proposed rate adjustment at any time.
- C. The City shall collect from the Contractor four percent (4%) of the total collections, excluding sales tax, from residential, commercial and industrial customers as a gross receipts tax/franchise fee for the privilege of using the streets of the City in connection with this franchise agreement. Contractor shall remit a five percent (5%) franchise fee to the City for Roll-Off container services. Contractor shall pay such amount to the City on a monthly basis with the City retaining four percent (4%) from the monthly remittance made to the Contractor.
- D. City shall bill and collect from all residential, commercial and industrial customers in the City.
- E. All customers will be billed the monthly rates detailed in Exhibit A. Residences located outside of the corporate limits of Garden Ridge that are serviced by city water may subscribe to solid waste collection with Contractor and billed for such service by the City. Subscribers outside of the City will be billed at the rates detailed in Exhibit A.
- F. The City shall calculate the amount of solid waste collection service and recycling billed to residential, commercial and industrial customers monthly and shall retain eleven (11%) of the total collections as a billing service charge.
- G. The City shall remit to the Contractor, on a monthly basis a total of eighty-five percent (85%) of the total collections plus sales tax to the Contractor. With the remittance to the Contractor the City shall submit documentation to support the monthly calculation of total sales, eleven percent (11%) billing retainage and four percent (4%) franchise fee plus sales tax.
- H. The Contractor is responsible for remitting the sales tax submitted by the City for the services billed.

- I. The City reserves the right to negotiate billing and collection for solid waste collection and disposal service with the Contractor with one hundred twenty (120) days written notice by the City to the Contractor. Should billing and collection be transferred to the Contractor transfer of all customer information would be coordinated between the City and contractor during the one hundred twenty (120) day period.

14. **Complaints**

Complaints received by the City concerning solid waste collection and recycling services from residential and commercial customers will promptly be reported to Contractor. Contractor shall promptly respond to complaints received and provide the City with a report concerning corrective and/or investigative actions taken by the Contractor on each complaint.

15. **Legal Provisions:**

- A. Interruption in Service: In the event the collection and disposal of garbage shall be interrupted for any reason for more than forth-eight (48) hours as a sole result of a willful or negligent act of Contractor, the City shall have the right to make temporary independent arrangements for the purpose of continuing this necessary service to its citizens in order to provide and protect the public health and safety. An exception for not providing regularly scheduled service to certain locations would be hazardous conditions in which case a report will be made to the City and service shall resume when the hazardous condition is rectified. City and Contractor agree that Contractor shall not be responsible or liable in any way for damages by fire, flood, earthquake or act of God.
- B. Excessive Interruption in Service: If the interruption in service mentioned in the paragraph next above continues for a period of seven (7) days as a sole result of a willful or negligent act of Contractor, then City shall have the right to terminate the rights and privileges granted in this contract. City and Contractor agree that Contractor shall not be responsible or liable in any way for damages caused by fire, flood, earthquake, or act of God.
- C. Assignment: No assignment of Franchise Contract or any right accruing hereunder shall be made in whole or in part by the Contractor without the express written consent of any assignment; the assignee shall assume the liability of the Contractor.
- D. Severability: If any section, sentence, clause, paragraph or portion of this agreement shall, for any reason be declared illegal or invalid, such invalidity shall not affect the remaining provisions thereof.
- E. Repealer: All ordinances, parts of ordinances or resolutions in conflict herewith are expressly repealed.
- F. Each violation of any of the provisions of this ordinance shall constitute a penal offense and shall be punishable of a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each day that such offense continues and shall be a separate offense. Any violator may be subject to the enforcement provisions of Chapter 54 of the Texas Local Government Code.
- G. The Mayor is authorized to execute such contract on behalf of the City of Garden Ridge, Texas.
- H. In the event that the City is required to take any legal action to enforce the terms and conditions of this agreement because of the breach of or failure to perform

any term or condition by the Contractor, the Contractor agrees to pay all costs expended by the City including reasonable attorney fees.

- I. In the event of a natural disaster (defined as a storm, flood or tornado) wherein the City is declared a disaster area by the State or Federal government, City shall have the right to dispose of rubbish and trash and will attempt in good faith to use Contractor's facilities if they can be used at the same or lower costs than other methods available to the City. This provision shall also apply to the disposal of any rubbish or trash resulting from severe weather or fires of a lesser degree than a natural disaster.

16. Notices: Where written notices are provided for in this agreement, same shall be sufficient to notify Contractor if mailed certified mail to Bexar Waste, P.O. Box 519, Schertz, Texas 78154 and shall be sufficient to notify the City if mailed certified mail to the City of Garden Ridge, 9400 Municipal Parkway, Garden Ridge, Texas 78266.

PASSED AND APPROVED this 1st day of August, 2012.

CITY OF GARDEN RIDGE,

By: _____
Jay F. Feibelman
Mayor

ATTEST: _____
Shelley Goodwin, TRMC
City Secretary

BEXAR WASTE

By: _____
Henry Gutierrez
Owner/Operator

ATTEST: _____

QUARTERLY REPORT
CITY OF GARDEN RIDGE
BALANCE OF ALL FUNDS AS OF 6/30/12

<u>ACCOUNT</u>	<u>BALANCE</u>	<u>CURRENT RATE</u>	<u>AVERAGE RATE FOR QUARTER</u>
CITY FUNDS			
OPERATING ACCOUNT	\$ 158,771.63	0%	0 %
MONEY MARKET	\$ 662,115.52	.35%	.3933%
MUNICIPAL COMPLEX PROJECT FUND	\$ 15,536.53	.21%	.2033%
ASSET FORFEITURE/SEIZURE (STATE)	\$ 1,474.07	0%	.06%
ASSET FORFEITURE/SEIZURE (FED)	\$ 51,148.63	.30%	.23%
2002 WATER IMPROVEMENT I&S	\$ 23,472.31	.20%	.20%
2005 MUNICIPAL COMPLEX I&S	\$ 92,872.16	.30%	.3433%
2005 I&S - TAX NOTE	\$ 82,562.89	.30%	.3433%
2009 REFINANCE 98 I&S	\$ 82,848.84	.30%	.3633%
2009 I&S	\$ 121,868.40	.35%	.3766%
STREET IMPACT FEE	\$ 169,333.43	.35%	.3933%
TEXPOOL STREET IMPACT FEE	\$ 408.94	0%	0%
TEXPOOL INVESTMENT	\$ 399.67	0%	0%
PEG CAPITAL FEES	\$ 8,674.20	0%	0%
SUBTOTAL OF CITY FUNDS	\$ 1,461,187.22		
AVERAGE CITY INTEREST RATE		.2955%	.29064%
WATER FUNDS			
2009 WATER IMPROVEMENTS	\$ 63,820.97	.30%	.35%
IMPACT FEES	\$ 897,895.24	.35%	.3933%
TEXPOOL WATER INVESTMENT	\$ 604.91	0%	0%
TEXPOOL IMPACT FEE	\$ 411.31	0%	0%
WATER RIGHTS/INFRASTRUCTURE	\$ 4,896.92	.1395%	.1250%
WATER SURCHARGE REVENUE	\$ 90,011.79	.30%	.3433%
WATER COMPANY OPERATING	\$ 3,170,553.85	.35%	.3933%
SUBTOTAL WATER FUNDS	\$ 4,228,194.99		
AVERAGE WATER INTEREST RATE		.2879%	.32098%
TOTAL ALL FUNDS	\$ 5,689,682.21		
TOTAL AVERAGE INTEREST RATE		.2917%	.30581%

CITY OF GARDEN RIDGE

GENERAL FUND

CASH & INVESTMENTS AS OF 6/30/12

OPERATING CHECKING	\$ 158,771.63
MONEY MARKET	<u>\$ 662,115.52</u>
TOTAL GENERAL FUND	\$ 820,887.15
TEXPOOL INVESTMENT	<u>\$ 399.67</u>
TOTAL INVESTMENT	\$ 399.67
TOTAL RESERVES FOR CITY	\$ 821,286.82

WATER FUND

INVESTMENTS AS OF 6/30/12

WATER COMPANY OPERATING	\$ 3,170,553.85
TEXPOOL WATER INVESTMENT FUND	<u>\$ 604.91</u>
TOTAL WATER COMPANY RESERVES	\$ 3,171,158.76

EXPENDITURE & REVENUES

PERIOD OF 6/30/12

75% OF FISCAL YEAR

REVENUE YEAR TO DATE

GENERAL FUND	\$ 1,674,465	81.94% of Budget
WATER FUND	\$ 752,256	59.29% of Budget

EXPENDITURES YEAR TO DATE

GENERAL FUND	\$ 1,565,079	78.30% of Budget
WATER FUND	\$ 468,909	45.51% of Budget

EXCESS REVENUE OVER/(UNDER) EXPENDITURES YEAR TO DATE

GENERAL FUND	\$ 109,386
WATER FUND	\$ 283,347

REVENUE FOR MONTH ENDING 6/30/12

GENERAL FUND	\$ 55,687
WATER FUND	\$ 163,870

EXPENDITURES FOR MONTH ENDING 6/30/12

GENERAL FUND	\$ 146,295
WATER FUND	\$ 42,555

EXCESS REVENUE OVER/(UNDER) EXPENDITURES FOR MONTH ENDING 6/30/12

GENERAL FUND	\$ (90,608)
WATER FUND	\$ 121,315

Garden Ridge Community Center

6/30/12

Revenues

Rentals	\$ 17,225
Deposits	\$ 12,468*
Donations	\$ 300

Total Deposits Received:	\$ 21,775
Deposits refunded to date:	\$ <u>9,307</u>
Revenue from deposits to date:	\$ 12,468*

Total Revenue: \$ 29,993

Expenditures

Telephone	\$ 423
Supplies	\$ 409
Utilities	\$ 3,631
Maintenance	\$ 5,367
Equipment	\$ 596
Facility Enhancements	\$ 0
Manager	\$ 8,644
Marketing	\$ 0
Donation Expenditures	\$ <u>0</u>

Total Expenditures: \$ 19,070

Revenue Over/ (Under) Expenditures: \$ 10,923