

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SYLVIA GONZALEZ,

Plaintiff,

v.

CITY OF CASTLE HILLS, TEXAS;

EDWARD “JR” TREVINO, II,
Mayor of Castle Hills, sued in his
individual capacity;

JOHN SIEMENS, Chief of the
Castle Hills Police Department,
sued in his individual capacity; and

ALEXANDER WRIGHT, sued in
his individual capacity,

Defendants.

Civil Action No. 5:20-cv-1151

Complaint and Jury Demand

COMPLAINT FOR RETROSPECTIVE RELIEF

Plaintiff Sylvia Gonzalez hereby sues the City of Castle Hills, Texas (“Castle Hills” or “City”); and Edward “JR” Trevino, II, John Siemens, and Alexander Wright (collectively, “Individual Defendants”) for their deprivation of her rights under the First and Fourteenth Amendments to the United States Constitution.

Introduction

1. After being elected to the Castle Hills city council, Sylvia Gonzalez participated in organizing a nonbinding citizens’ petition to urge the removal of Ryan Rapelye from his position as the Castle Hills city manager.

2. Getting wind of Sylvia's efforts and assuming she was the driving force behind the petition, Defendant Castle Hills and the Individual Defendants (collectively, "Defendants") adopted a plan to retaliate against Sylvia for her protected speech, resulting in Sylvia's arrest on manufactured misdemeanor charges of tampering with a government record.

3. This lawsuit seeks redress for that unconstitutional arrest.

4. Defendants charged Sylvia under a statute that has never before or since been used to arrest individuals similarly situated to Sylvia.

5. Sylvia's arrest was unlawful because it was engineered and executed as part of a high-level policy to retaliate against Sylvia's exercise of political speech.

6. This was a long-term and pervasive policy and involved significant deliberations—outside of split-second decision making—by high-level officials.

7. Defendants succeeded in their attempts to punish and intimidate Sylvia, who, at the age of 72, made history as the City's first Hispanic councilwoman.

8. Sylvia, with her reputation ruined and her pocketbook significantly diminished, has been so traumatized by the experience that she will never again help organize a petition or participate in any other public expression of her political speech. She will also never again run for any political office.

9. There is nothing more fundamental to our system of government than its founding principle that the First Amendment protects political speech. This principle means little if local governments and their officials can—without consequence—punish and intimidate those who engage in political speech. This suit

is filed in defense of this principle and to ensure the constitutional accountability of all government officials.

Jurisdiction and Venue

10. This is a civil rights case brought under 42 U.S.C. § 1983, and the First and Fourteenth Amendments to the United States Constitution.

11. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, 2201, and 2202.

12. Venue is proper in this Court under 28 U.S.C. § 1391.

The Parties

13. Plaintiff Sylvia Gonzalez is a citizen of the United States and long-time resident of Castle Hills, Texas.

14. Defendant City of Castle Hills, Texas, is a Type A general-law municipality located in Bexar County, Texas. The City's governing body consists of a mayor and five aldermen, commonly referred to as councilmembers. The City has adopted the city-manager form of government and delegated extensive authority to its city manager.

15. Defendant Edward "JR" Trevino, II, is the mayor of Castle Hills.

16. Defendant John ("Johnny") Siemens is the chief of the Castle Hills police department and was appointed to that position by a city manager.

17. Defendant Alexander ("Alex") Wright is a practicing attorney who, although not a police officer by trade, acted as a special detective with the police department. On June 18, 2019, he was assigned by defendant police chief Siemens to

investigate a complaint against Sylvia made by defendant mayor Trevino. The City has carried Wright's law enforcement commission for many years, even though Wright is not an active duty officer and is not employed by the City.

Statement of Facts

Sylvia

18. Sylvia Gonzalez is 74 years old.
19. She comes from a law-enforcement family dedicated to public service.
20. Sylvia's father was a police officer.
21. Sylvia's daughter is a police officer.
22. Sylvia's niece and cousins are police officers.
23. Other than the charge at issue in this case, Sylvia has no criminal record.
24. After a fulfilling career in communications, Sylvia successfully ran for a seat on the Castle Hills city council and spoke out against the politically powerful in her small hometown by criticizing city manager Ryan Rapelye and participating in an effort to organize a nonbinding citizens' petition to remove him from office.
25. After Defendants learned about Sylvia's criticisms of Rapelye and assumed she was the driving force behind the petition advocating for his removal, they developed a plan to punish and intimidate Sylvia in retaliation for her political speech. The plan culminated in Sylvia's arrest under a misdemeanor statute for purportedly trying to steal the petition she herself championed. The statute has never been used to arrest a person in an analogous situation.

26. Defendants intended for Sylvia—a harmless and peaceful woman in her seventies, who presented no threat to anyone and was no risk of flight—to spend the day in jail. That’s why they obtained a warrant, instead of a summons, and also bypassed the Bexar County district attorney’s office—the default practice for those accused of nonviolent crimes, which would have afforded Sylvia an opportunity to be processed through a satellite booking, rather than going to jail. As it happens, the district attorney’s office, upon later review, dismissed the charges against Sylvia.

Castle Hills

27. Defendant Castle Hills is a city with fewer than 5,000 residents.

28. The City’s government is controlled by a small group of politically powerful people (including the mayor, chief of police, and city manager).

29. The mayor of Castle Hills is an elected position. The mayor serves as the presiding officer of the city council. The mayor casts a tie-breaking vote on the city council and has the power to call special council meetings.

30. The chief of police of Castle Hills is appointed by the city manager and reports to the city manager. The appointment is subject to approval by the city council. The chief of police is in charge of the police department and oversees its operations and budget. Among other duties, the chief of police oversees criminal investigations.

31. The Castle Hills city council is the five-member executive body of the City. The members are elected for two-year terms. They vote to set policy, adopt the

City's budget, approve purchases and contracts, and review laws. They also appoint executive officials, such as the city manager and city attorney.

32. The city manager of Castle Hills is appointed for an indefinite period by the city council and is in charge of most day-to-day decision-making. The city manager's powers include ensuring enforcement of all city laws; receiving and accounting for all city moneys; managing city contracts; appointing and removing department heads and subordinate city employees; preparing the city budget; and acting as the editor of the city newsletter, *The Reporter*.

33. The city attorney for Castle Hills is appointed by the city council. The city attorney serves as a legal adviser to the council, the city manager, and all other officers, boards, and departments of the City. Among other duties, the city attorney reviews articles published in the city newsletter, *The Reporter*.

Sylvia Runs for Office.

34. When Sylvia decided to run for office, she was prepared for a grueling campaign to unseat her opponent, who was a well-connected incumbent supported by the City and the Individual Defendants.

35. Sylvia campaigned house-to-house, knocking on countless doors and personally meeting with more than 500 Castle Hills families.

36. Sylvia was not prepared, however, for the degree of negative feedback she would receive about the City during her campaigning.

37. Castle Hills residents complained to Sylvia about corruption and other problems with the City and the Individual Defendants.

38. Although she did not know him personally, Sylvia was deeply disturbed by stories about city manager Ryan Rapelye.

39. As one example, Sylvia heard that Rapelye had falsely accused his secretary of stealing city documents, having her detained by Castle Hills police, and forcing her to take a lie detector test before firing her.

40. While campaigning, Sylvia also heard allegations that the City and the Individual Defendants were steering city policy and resources away from resident services and toward enriching city employees.

41. Beyond the stories, many residents conveyed frustration with Castle Hills government and with city manager Rapelye. One resident suggested Sylvia organize a petition to express discontent with Rapelye's performance.

Sylvia Wins the Election.

42. On May 4, 2019, Sylvia was elected as the first Hispanic councilwoman in Castle Hills history.

43. On May 14, 2019, Sylvia was sworn in as a member of the council by Bexar County sheriff Javier Salazar.

44. City attorney Schnall was present at Sylvia's swearing-in ceremony.

45. Schnall did not object to any part of the swearing-in, and even applauded at the completion of the ceremony.

Sylvia Takes Office and Takes on the City and the Individual Defendants.

46. As her first act in office, Sylvia participated in organizing a citizen-signed, nonbinding petition calling for the removal of city manager Rapelye from office. *See* Exhibit A, the Petition.

47. The petition was a pure expression of political speech. It had no legal force. It was designed to simply express the discontent of Sylvia's constituents with Rapelye's performance as city manager and was signed by more than 300 Castle Hills residents.

48. The petition had six concise bullet points and was titled "FIX OUR STREETS Reinstate former City Manager Diane Pfeil." *Id.*

49. The petition proposed that city council replace Rapelye with Diane Pfeil, a previous city manager who had been removed from office after repeatedly clashing with defendant Siemens (deputy police chief at the time) and defendant Trevino (then a councilmember), including over the use of civil forfeiture funds. *Id.*

50. In addition, one of the bullet points in the petition criticized "various city managers" who came after Diane Pfeil for "ma[king] up priority lists and pa[ying] for expensive engineering studies." "None," the petition continued, "have fixed a single street." *Id.* Rapelye is one of the various city managers who came after Diane Pfeil.

51. Defendants mistakenly believed that Sylvia collected all of the 300-plus signatures, even though she personally obtained just a fraction of this total number.

52. Not everyone who heard from Sylvia signed her petition. Chalene Martinez, a resident with connections to the City and the Individual Defendants, declined to sign.

53. On May 21, 2019—Sylvia’s first council meeting—a resident submitted the petition to the city council

54. To Sylvia’s surprise, the City and the Individual Defendants expected its submission.

55. Citizens with connections to the City and the Individual Defendants, including Mike Flinn, Bonnie Hopke, and Robbie Casey, attended the council meeting and testified against the petition.

56. Chalene Martinez—a citizen who had refused to sign the petition when asked by Sylvia—also testified in opposition to the petition.

57. According to Martinez, Sylvia asked her to sign the petition “under false pretenses.”

58. Martinez did not elaborate further.

59. Due to its contentiousness, the meeting was ultimately carried over to the next day, May 22, 2019.

60. The May 22 meeting remained tense, while the city council argued over city manager Rapelye’s job performance.

61. Importantly, Sylvia and defendant mayor Trevino sat next to each other at the council table during council meetings.

62. When the meeting was finally over, Sylvia got ready to go, picking up all of the hand-outs on her side of the dais and placing them in her binder.

63. Before she could leave, the city council secretary walked up to Sylvia and told her that Amy McLin— the incumbent unseated by Sylvia—had an immediate open records request for Sylvia and was waiting to give it to her.

64. Sylvia left her belongings—including her document binder—on the dais, and went to talk to McLin, who asked Sylvia for all the notes Sylvia took during the May 21 meeting related to the questions Sylvia asked of Rapelye.

65. Sylvia responded that she threw away the post-its but that if McLin wanted to hear the questions, they were available on the Castle Hills' YouTube channel.

66. Sylvia's fellow councilmember, Clyde "Skip" McCormick, who was standing next to McLin, threatened to have Sylvia arrested and "sent to federal prison" if she didn't hand over a copy of her meeting notes.

67. During this entire conversation, Sylvia was standing with her back to the dais.

68. At some point during the conversation, a police officer in charge of the safety—Captain Steve E. Zuniga—tapped on Sylvia's shoulder and told her that defendant mayor Trevino wanted to talk to her. Exhibit B, Castle Hills Police Department Offense/Incident Report, at 5.

69. Sylvia turned around and, escorted by Zuniga (which she found rather strange), went back to the dais, where defendant Trevino and she had been sitting next to each other during the meeting.

70. With Captain Zuniga by his side, defendant Trevino asked Sylvia: “Where’s the petition?”

71. Sylvia replied: “Don’t you have it? It was turned in to you yesterday.”

72. Responding in the negative, defendant Trevino then asked Sylvia to look for the petition in her binder.

73. Sylvia did and, much to her surprise, found the petition there.

74. When Sylvia handed the petition to defendant Trevino, he stated: “You probably picked it up by mistake.”

75. The two parted ways, with Sylvia not thinking much of the encounter.

76. Sylvia did not intentionally put the petition in her binder.

77. Sylvia never left the council room with the petition. Indeed, she never even left the council table with the petition.

78. Sylvia had worked hard to help organize the petition and ensure its submission to city council. The petition gave more force to Sylvia’s own judgment that the city manager was not doing a good job. It would have been entirely illogical for Sylvia to try to take back the petition.

Castle Hills and the Individual Defendants Retaliate Against Sylvia, Ultimately Securing Her Arrest.

79. The City and the Individual Defendants learned about Sylvia’s petition from supporters like Chalene Martinez, whom Sylvia approached for her signature.

80. The City and the Individual Defendants, acting under color of Texas law and cloaked in authority from Castle Hills, then developed a comprehensive plan to punish and deter Sylvia based on her political expression. The plan was to give Sylvia a taste of her own medicine by removing her from the city council.

81. Castle Hills councilmember McCormick wrote about the Defendants' plan in the City's newsletter, distributed to residents on July 17, 2019, but written weeks ahead of time. To remove a council member, he said, residents could sue them for official misconduct or incompetency. Alternatively, if a councilmember is convicted of a felony or a misdemeanor involving official misconduct, it would operate as an immediate removal from office. Exhibit C, The Castle Hills Reporter, at 5-6 (July/August 2019).

82. As the editor of the City's newsletter, city manager Rapelye saw the article well in advance of its publication.

83. As a reviewer of the City's newsletter, city attorney Schnall also saw the article well in advance of its publication.

84. In addition to the two options provided by councilmember McCormick, the City and the Individual Defendants developed a third: retaliate against Sylvia's speech by directly removing her from office through a manufactured technical failure in her swearing-in.

85. The City and the Individual Defendants were motivated to punish Sylvia for her speech—and deter future speech—based on the content of that speech.

86. Had the City and the Individual Defendants not harbored retaliatory animus toward Sylvia's speech, they would have never acted on any one of the three options in their plan.

Option 1: Charge Sylvia with a crime and arrest her.

87. As described in councilmember McCormick's article, the surest way to remove a council member is by obtaining a criminal conviction against her.

88. To punish Sylvia for championing the petition and to deter her from the future exercise of her First Amendment rights, the City and the Individual Defendants developed and executed a plan to manufacture criminal charges against Sylvia and have her thrown in jail.

89. On May 24, 2019—two days after defendant mayor Trevino, with Captain Zuniga by his side, confronted Sylvia about purportedly stealing the petition that she supported—defendant police chief Siemens told another police officer—Sergeant Paul Turner—that defendant Trevino would be contacting the officer “in reference to the filing of a criminal complaint” against Sylvia, which defendant Trevino subsequently did. Exhibit B, at 4.

90. After the complaint was filed, Sergeant Turner began his investigation by going to the homes of people who signed the petition and questioning them about this act of civil expression.

91. Many of these individuals whom Sergeant Turner approached said they felt threatened by his actions and questions, as it was difficult to understand why a

police officer would be knocking on their doors and challenging their signatures on a nonbinding petition, with no force other than an expression of political thought.

92. On June 18, 2019—with Sergeant Turner’s investigation going nowhere—the City and the Individual Defendants changed strategy. Defendant Siemens turned to a trusted friend, defendant special detective Alex Wright, to take over Sergeant Turner’s investigation.

93. Defendant Wright is a private attorney, not a professional police officer, although he is a commissioned police officer in Texas and the Castle Hills Police Department has paid to carry defendant Wright’s commission for years.

94. While it is often true that in sensitive political cases local district attorneys employ private lawyers to act as special prosecutors, these lawyers are not deputized as police officers, cannot be affiants for warrants, and cannot walk warrants (bypassing local district attorneys in doing so).

95. Defendant Wright—with the authorization provided to him by defendant Siemens—did all three. And defendant Wright did not act as a special prosecutor, he was tasked with investigating Sylvia as a detective.

96. As part of his month-long investigation into Sylvia, defendant Wright interviewed defendant Trevino, Captain Zuniga, and city manager Rapelye.

97. Following his investigation, the only charge defendant Wright could come up with was a Class A misdemeanor for tampering with a government record, for supposedly attempting to steal a petition that Sylvia herself championed. Tex. Penal Code § 37.10(a)(3), (c)(1).

98. Defendants made the most of this charge, however, by doing three distinct things to ensure that Sylvia would be jailed based on it, rather than simply asked to appear before a judge.

99. First, Defendants chose to obtain a warrant, rather than a summons—the procedure normally reserved for people suspected of nonviolent crime. Unlike warrants, summonses do not require a trip to jail.

100. Second, Defendants didn't just obtain a warrant through normal channels, by going through the district attorney (the "DA"). Instead, they circumvented the DA by using a procedure typically reserved for violent felonies or emergency situations and walked the warrant directly to a magistrate. When the DA's office finally learned of the charges and reviewed them, it dismissed them.

101. Third, by using the procedure that circumvented the DA, Defendants also ensured that Sylvia would not be able to avoid jail by taking advantage of the satellite booking function, provided by the Bexar County jail system to weed out nonviolent offenses. This function allows individuals with outstanding warrants to be booked, processed, and released without being jailed. Because Sylvia's warrant was not acquired through the traditional channels, it was not discoverable through the satellite office's computer system, leaving Sylvia no option other than jail.

102. It was bad enough that Sylvia was jailed for a nonviolent offense. Even worse, the charge itself was a sham, since the statute it utilized was never before used to charge people on facts even remotely similar to Sylvia's.

103. According to defendant Wright's affidavit, Sylvia violated the misdemeanor statute because she tried to steal the petition she herself championed. As evidence of the attempt, the affidavit, provided by Defendant Wright to a magistrate, used the brief, inconclusive statements made by Chalene Martinez during the meeting on May 21, as well as the allegations made by defendant Trevino in his complaint. The affidavit also accused Sylvia of being openly antagonistic toward city manager Rapelye. The affidavit did not dispute that Sylvia was expressing political speech. The issue was that this speech was intended to oust defendant Rapelye from his job. Indeed, the affidavit shows that Sylvia's speech was the motivation behind defendant Wright's investigation:

- a. "From her very first [council] meeting in May of 2019, [Sylvia] (along with another alderwoman) has been openly antagonistic to the city manager, Ryan Rapelye, wanting desperately to get him fired."
- b. "Part of her plan to oust Mr. Rapelye involved collecting signatures on several petitions to that effect."
- c. "Gonzalez had personally gone to [a resident's] house on May 13, 2019, to get her signature on one of the petitions under false pretenses, by misleading her, and by telling her several fabrications regarding Ryan Rapelye"

Exhibit D, Defendant Wright's Complaint/Affidavit for Warrant of Arrest, at 2, 5 (citing defendant Wright's interviews with defendant Trevino and Ms. Martinez).

104. Importantly, there was no need to examine Sylvia's speech in order to determine whether there was probable cause to arrest her for theft.

105. Furthermore, a review of misdemeanor and felony data from Bexar County over the past decade makes it clear that the misdemeanor tampering statute has never been used in Bexar County to criminally charge someone for trying to steal a nonbinding *or* expressive document.

106. Of 215 grand jury felony indictments obtained under the tampering statute at issue in this case, not one had an allegation even closely resembling the one mounted against Sylvia. By far the largest chunk of the indictments involved accusations of either using or making fake government identification documents: altered driver's licenses, another person's ID, temporary identification cards, public safety permits, green cards, or social security numbers. A few others concerned the misuse of financial information, like writing of fake checks or stealing banking information. The rest are outliers, but all very different from Sylvia's situation. They concern hiding evidence of murder, cheating on a government-issued exam, and using a fake certificate of title, among others.

107. Misdemeanor data is even more unremarkable. In each case available for review, the alleged tampering involved the use of fake social security numbers, driver's licenses, and green cards.

108. The data, as well as the availability of procedures designed to allow people suspected of nonviolent offenses avoid going to jail, are clear: Defendants only had Sylvia arrested because they were harboring retaliatory animus toward her and

wanted to punish her for speaking out against city manager Rapelye and the entrenched interests of the City and the Individual Defendants he represented.

109. Had the City and the Individual Defendants lacked retaliatory animus, the Defendants would not have devised, adopted, or implemented their plan, which resulted in Sylvia's arrest.

110. Sylvia learned about a warrant for her arrest when she was in a doctor's office, waiting for her appointment.

111. As the receptionist called her name, a neighbor called Sylvia on her cellphone and told her that she should turn herself in.

112. Explaining to the receptionist that she had an emergency and had to leave, Sylvia went downstairs and waited for her husband to pick her up.

113. The two septuagenarians then drove to the county jail.

114. The 72-year-old councilwoman was booked on July 18, 2019, spending a terrifying day in jail, sitting, handcuffed, on a cold metal bench, wearing an orange jail shirt, and avoiding using the restroom, which had no doors and no toilet-paper holders. The entire time there, she was not allowed to stand up and stretch her legs.

115. For someone who doesn't even have a speeding ticket on her record, this was quite an experience.

116. Sylvia's name and mugshot were splashed across local media for days, and they are still on the internet.

Option 2: Remove Sylvia from office for a made-up technicality.

117. While defendant Wright was buying time during his month-long investigation of Sylvia, the City and the Individual Defendants were considering alternative options to retaliate against Sylvia for her political speech. After all, their ultimate retaliatory goal was to intimidate, punish, and silence Sylvia by removing her from office. One way of achieving it was by arresting her and throwing her in jail. Another was by trying to remove Sylvia directly.

118. On July 9, 2019, right before Sylvia approached her seat at the council table, city attorney Schnall pulled Sylvia into a room with one of his law partners, as well as defendant mayor Trevino and a non-resident friend of the mayor, where Schnall told Sylvia that she was not qualified to be a member of city council because she had been sworn in by a sheriff. To support his statement, Schnall invoked the Texas Government Code, according to which “[a]n oath . . . may be administered” by a sheriff, provided it is done when the sheriff “is engaged in the performance of the [sheriff’s] duties” and “the administration of the oath relates to the [sheriff’s] duties.” Tex. Gov’t Code § 602.002(17). Schnall argued that when sheriff Salazar swore in Sylvia, he was doing neither.

119. Remarkably, Schnall—the city attorney, present at council meetings to ensure that necessary legal requirements are followed—had attended Sylvia’s swearing-in by sheriff Salazar and raised no concerns at the time. Instead, he watched approvingly from mere feet away as Sylvia took her oath of office, applauding when she concluded.

120. But now, motivated by retaliatory animus toward Sylvia, city attorney Schnall with the support of defendant Trevino declared that Sylvia had been improperly sworn in and was not qualified to remain in her seat on the council. Further, because more than 30 days had elapsed since Sylvia's election, Schnall stated that Sylvia could not be resworn. Instead, she had to be replaced by the Defendant's ally Amy McLin, whom Sylvia had beaten in the election.

121. Sylvia's de facto removal by Schnall and defendant Trevino was not ratified by a vote of the city council as would have been required under Texas law. Instead, when the issue was raised at a council meeting, Schnall said it was not properly before the council and could not be taken up.

122. Evidencing the retaliatory purpose of Sylvia's removal, Defendants had not attempted to take similar actions against council members who had been sworn in by sheriffs in the past, including two who were sworn in by a sheriff in 2014 and served out their terms without incident.

123. More to the point, Defendants also did not question the legitimacy of defendant mayor Trevino's seat, even though he was sworn in by the Bexar County Precinct 3 commissioner Kevin A. Wolff. Just like with the sheriffs, the Texas Government Code qualifies the purpose for which commissioners can administer oaths of office, limiting it to "a matter pertaining to a duty of the . . . commission." Tex. Gov't Code § 602.002(6). If it is questionable whether a *sheriff's* administration of the oath relates to the sheriff's duties and falls within their scope, it is also questionable whether a *commissioner's* administration of the oath is a matter

pertaining to a duty of the commission. Yet, city attorney Schnall did not question the mayor's legitimacy, even though he and Sylvia were sworn in on the same day.

124. Determined to address the concern and move on, Sylvia got resworn by a notary at a bank. She and her friend then went to the city manager's office to turn in the certificate, proving that she did so. As she was walking out the door, Sylvia overheard city manager Rapelye complain to someone: "You know what she did? She campaigned against me!"

125. Sylvia also contested Defendants' decision to order her removal by securing a special council meeting to take up the issue on July 17, 2019. That's when the City and the Individual Defendants knew that the simple route of direct removal was not going to be so simple.

126. So, on this same day, July 17, 2019, defendant Wright circumvented the Bexar County DA and walked the warrant for Sylvia's arrest to a judge. The following day Sylvia was arrested.

127. After she was released from jail on bond, Sylvia sought a temporary restraining order against Castle Hills and Schnall enjoining her removal. A court granted the order the day after her filing, on July 23, 2019.

Option 3: File a civil lawsuit against Sylvia to keep her off city council.

128. After a judge temporarily enjoined Defendants' attempt to unilaterally remove Sylvia from council on July 23, 2019, six Castle Hills residents, including Mike Flinn, Robbie Casey, and Bonnie Hopke—the three residents who, along with Chalene Martinez, testified against Sylvia's petition—filed a lawsuit in the name of the State of Texas to remove Sylvia for incompetence and official misconduct.

129. Ironically, and further evidencing the existence of a high-level plan, criminal charges filed against Sylvia in retaliation for her political speech were cited as the main reason warranting Sylvia's removal.

130. As with the Defendants' use of the criminal process, the residents' use of the civil process circumvented the district attorney's office.

131. And as with the Defendants' use of the criminal process, when the district attorney learned of the residents' use of the civil process, he filed a motion to dismiss the action, stating that "removal may only proceed with the intervention of the District Attorney to represent the interest of the state" and that "the Bexar County Criminal District Attorney declines to further prosecute this removal."

132. When the six residents filed their objections to the motion of nonsuit, the district attorney further elaborated that "after a careful and independent investigation [it determined that] neither the criminal charges against Defendants nor this Chapter 21 removal action should proceed."

133. After a district court judge dismissed the case and denied the motion for new trial, the six residents appealed this determination. As of the date of this complaint, their appeal is still pending.

134. When Sylvia's attorneys—and later a trusted friend—reached out to Mike Flinn's counsel on her behalf, asking for Sylvia to be released from the lawsuit—since she was no longer on the city council and had already spent around \$70,000 in attorney's fees—the counsel refused. During one of these conversations, Flinn's

counsel conditioned the release from the lawsuit on Sylvia signing an affidavit stating that she would never again run for the city council.

135. Despite being initially unsuccessful in (1) obtaining a criminal indictment against Sylvia, (2) removing her from office based on the claim of being improperly sworn in, and (3) having a civil lawsuit filed to remove Sylvia, Defendants succeeded in their ultimate goal of intimidating and punishing Sylvia in retaliation for her political speech. Sylvia is no longer on the city council—since she could not afford never-ending attorney’s fees caused by her arrest and by Schnall’s and citizens’ attempts to remove her— and will never again help organize a petition or participate in any other public expression of her political speech. She will also never again run for any political office.

Injury to Plaintiff

Defendants Have Severely Harmed Sylvia.

136. The retaliatory arrest manufactured by the City and the Individual Defendants directly and proximately caused severe harms to Sylvia, including but not limited to:

- a. The harm to Sylvia’s reputation. Sylvia’s mugshot was displayed repeatedly in the media, both in her community and beyond. She was the subject of repeated news articles about her wrongful arrest. To this day, harmful and embarrassing news articles with Sylvia’s mugshot appear when one searches for her on the internet. This harm continues to this day and is likely to continue in the future.

- b. The harm to her future opportunities. Sylvia's arrest is a matter of public record. If she were to ever apply for a job (which is increasingly likely even for senior citizens, in times of economic uncertainty) or for public benefits, her chances of succeeding would be significantly diminished due to her criminal record. *See* Elisha Jain, *Arrests as Regulation*, 67 *Stan. L. Rev.* 809, 810 (2015); *see also* Gary Fields & John R. Emshwiller, Opinion, *As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime*, *Wall St. J.* (Aug. 18, 2014), <https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402?st=cj2xuywlkthsmji>.
- c. The harm to her pocketbook. Sylvia had to pay a fee to be released from jail, a bondsman to secure her bond, and tens of thousands of dollars to lawyers to defend against the criminal charges.
- d. The harm to her faith in the criminal justice system. Defendants' actions caused Sylvia to lose faith in the criminal justice system and law enforcement in Castle Hills, a place where she lives and where her family has worked in law enforcement.
- e. The harm to her physical health. Stress brought on by the worry about her criminal prosecution led to many sleepless nights as well as anxiety-filled days, resulting in the overall deterioration of Sylvia's physical health.

Causes of Action

Count I

**42 U.S.C. § 1983—First and Fourteenth Amendments
(Retaliatory Arrest Claim Against Individual Defendants Trevino,
Siemens, and Wright)**

137. Sylvia realleges and incorporates by reference the allegations in Paragraphs 1 through 136 of this complaint, as if fully stated herein.

138. Sylvia's actions in championing the creation, signature, and submission of a nonbinding citizens' petition and urging the removal of city manager Rapelye from his job are safeguarded by the First Amendment to the United States Constitution.

139. Using their respective authorities under color of state law, the Individual Defendants subjected Sylvia to the deprivation of her rights under the First Amendment by retaliating against her for exercising those rights.

140. Motivated to punish and intimidate Sylvia for her exercise of free speech, the Individual Defendants engaged in various harmful acts against Sylvia in violation of clearly established First Amendment law, resulting in her arrest. These acts include:

- a. Defendant Trevino lodging a baseless theft complaint against Sylvia and participating in and encouraging a criminal investigation and the institution of criminal charges against Sylvia for her involvement with the petition.

- b. Defendant Siemens instigating and overseeing a full criminal investigation and institution of criminal charges against Sylvia for an ostensible crime related to defendant Trevino's theft complaint.
- c. Defendants Siemens and Trevino bringing in defendant Wright and tasking him with investigating Sylvia and manufacturing criminal charges against her.
- d. Defendant Wright conducting a full criminal investigation of Sylvia under a "Tampering with Governmental Record" statute that is never used against individuals similarly situated to Sylvia; swearing out a misleading criminal complaint against Sylvia; and proceeding with a criminal arrest process meant to intentionally exclude the district attorney's involvement and foreclose any avenue for Sylvia to appear before a court—either by way of a summons or through the satellite office—rather than be jailed.

141. The foregoing are actions independently unconstitutional but also were intended to send a warning to anyone else in Castle Hills bold enough to challenge the Individual Defendants' grip on power by exercising their First Amendment rights.

142. It is clearly established that retaliating against individuals by arresting them under a law that is generally not used to arrest similarly-situated individuals is a violation of the First Amendment. Every reasonable government official would have had a fair warning that doing so and participating in a scheme to do so is unconstitutional.

143. It is furthermore clearly established that retaliating against individuals by engaging in the various harmful acts described in Paragraph 140 is a violation of the First Amendment. Every reasonable government official would have had a fair warning that doing so and participating in a scheme to do so is unconstitutional.

144. The facts also demonstrate that the criminal charge the Individual Defendants assigned to Sylvia was a sham charge, regardless of attempts to fabricate probable cause or convince a judge to sign an arrest warrant. Thus, even if probable cause existed, the application of an unenforced law to Sylvia is insufficient to outweigh the retaliatory animus illustrated by the surrounding circumstances. The facts, including the exclusion of the district attorney and his later dismissal of defendant Wright's charges against Sylvia, cannot objectively justify Sylvia's arrest.

145. No other similarly situated individuals have ever been charged or arrested as Sylvia was.

146. Moreover, the Individual Defendants were not acting under time constraint and made no split-second decisions regarding Sylvia's arrest.

147. Furthermore, Sylvia's protected speech is not a legitimate consideration in determining whether to make an arrest based on the claim that she tried to steal the petition.

148. The Individual Defendants' unconstitutional acts, motivated by retaliatory animus, directly harmed Sylvia by chilling her ability to exercise her First Amendment rights and by causing her pecuniary loss and the deterioration of her health.

149. Had it not been for the retaliatory animus, the Individual Defendants would have never arrested Sylvia for her actions related to supporting a nonbinding citizens' petition that did nothing other than express public discontent with the city government.

Count II
42 U.S.C. § 1983 – First and Fourteenth Amendments
(Retaliatory Arrest Claim against the City of Castle Hills)

150. Sylvia realleges and incorporates by reference the allegations in Paragraphs 1 through 136 of this complaint, as if fully stated herein.

151. Through the Individual Defendants, as well as through city manager Rapelye, city attorney Schnall, and councilmember McCormick, Castle Hills adopted and enforced an official policy or custom to retaliate against Sylvia for her First Amendment activities, namely the expression of her political thought through a nonbinding citizens' petition urging the firing of city manager Rapelye.

152. As noted in Count I and elsewhere in the complaint, the City retaliated against Sylvia in violation of the First Amendment by concocting a scheme to arrest Sylvia on manufactured misdemeanor charges.

153. This scheme was a part of an official policy or custom that was deliberate, long-term, and pervasive, unlike on-the-spot decisions to arrest, sometimes made by individual officers in split-second situations.

154. The decision to arrest Sylvia can also be easily disentangled from her speech: unlike in some situations when an officer has to take speech into account when determining whether an arrest is warranted (for example content of speech

could indicate whether a suspect is ready to cooperate or presents a continuing threat), here, there was no need to consider the substance of the petition to determine whether the tampering statute was violated. After all, the basis for Sylvia's arrest was the allegation that she tried to steal her petition. The substance of the petition has nothing to do with evaluating whether the theft took place.

155. The actions of the Individual Defendants, as well as city manager Rapelye, attorney Schnall, and councilmember McCormick are attributable to the City. As final policy-makers with final authority, or who were delegated final authority, these individuals made a deliberate choice to adopt a course of action that retaliated against Sylvia and resulted in her arrest. They also ratified these retaliatory acts.

156. As city manager—imbued with the authority to appoint and supervise all city employees and departments—Rapelye is a municipal policymaker, and his decisions and actions described in this complaint represent official Castle Hills policy.

157. As mayor—president of the city council—defendant Trevino is a municipal policymaker, and his decisions and actions described in this complaint represent official Castle Hills policy.

158. As a council member, McCormick was a municipal policymaker, and his decisions and actions described in this complaint represent official Castle Hills policy.

159. As police chief—executive head of the police department—defendant Siemens is a municipal policymaker, and his decisions and actions described in this complaint represent official Castle Hills policy. Alternatively, as policymakers

supervising and directing defendant Siemens, city manager Rapelye, councilmember McCormick, and defendant Trevino ratified defendant Siemens's actions as municipal policy.

160. As special detective—charged directly by defendant Siemens and defendant Trevino with assigning criminal charge to Sylvia—defendant Wright's decisions and actions described in this complaint represent official Castle Hills policy. Alternatively, as policymakers supervising and directing defendant Wright, defendant Siemens, defendant Trevino, city manager Rapelye, and councilmember McCormick ratified defendant Wright's actions as municipal policy.

161. As city attorney, who serves as a legal adviser to the council, the city manager, and all other departments of the City, Marc Schnall acted in a way that represented official Castle Hills policy. Alternatively, as policymakers supervising and directing Schnall, defendants Siemens and Trevino, city manager Rapelye, and councilmember McCormick ratified Schnall's actions as municipal policy.

162. The actions undertaken or ratified by the City constitute the moving force behind the retaliatory arrest aimed at Sylvia's exercise of her First Amendment rights, which caused harm to Sylvia, including, but not limited to damage to her reputation, her health, her financial circumstances, and other adverse effects.

163. Had it not been for the retaliatory animus, the City would have never caused, permitted, or approved Sylvia's arrest for championing a nonbinding citizens' petition that did nothing other than express public discontent with the city government.

164. Alternatively, in recent years, there has been a persistent and widespread practice by Castle Hills of retaliating against city residents who voice criticism of the City or its officials or who petition the City for redress of grievances.

165. In addition to what happened to Sylvia, Castle Hills has a history of cracking down on disfavored speech.

166. For example, in 2017 or 2018, a local resident organized a petition to advocate for the closing of an impound lot in his neighborhood. To intimidate the resident and discourage him from submitting the petition, defendant Trevino—then a council member—along with the former police chief, the former mayor, and the former city manager showed up at the resident’s home and threatened him.

167. Similarly, in 2018, when another city resident put up opposition campaign signs on private front yards with owner permission, defendant Trevino’s predecessor called and threatened him with an easement violation. “If this is the way y’all want to play the game,” said the mayor in a voicemail message, “then I can order the police to just go ahead and write citations to everybody that has them in the easement and kinda, maybe report it that you were the one that started this.”

168. In 2016 and 2018, mayor Trevino, police chief Siemens, special detective Wright, and councilmember McCormick were in positions of power in Castle Hills. As such, they—as current policymakers—had actual or constructive knowledge of this unconstitutional policy or custom of retaliating against city residents who criticize Castle Hills or its officials or who petition the City for redress of grievances.

169. But for the City's policy or custom of retaliation in response to criticism of those in power, Sylvia would not have been arrested, had her reputation dragged through the mud, subjected to abuse of process, and suffered various other harms that further serve to chill her First Amendment activities.

Prayer for Relief

WHEREFORE, Sylvia Gonzalez seeks a judgment (1) declaring that the City and the Individual Defendants violated her rights under the First and Fourteenth Amendments to the United States Constitution, and (2) awarding her compensatory and punitive money damages against the City of Castle Hills, Texas; Edward "JR" Trevino, II; John Siemens; and Alexander Wright. Sylvia also seeks her attorney's fees and costs under 42 U.S.C. § 1988 as well as all other and further relief as the Court may deem just and proper.

Jury Demand

Sylvia Gonzalez demands a trial by jury on all issues triable under Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 29, 2020

Respectfully submitted,

/s/ Anya Bidwell

Anya Bidwell (TX Bar No. 24101516)

Will Aronin*

Patrick Jaicomo*

INSTITUTE FOR JUSTICE

901 North Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

abidwell@ij.org

waronin@ij.org

pjaicomo@ij.org

* *Pro Hac Vice* motions to be filed

CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of September, 2020, I electronically filed the Complaint with the Clerk of Court using the CM/ECF system.

I further certify that I caused a copy of the foregoing Complaint to be served via process server upon the following:

City of Castle Hills
209 Lemonwood Drive
Castle Hills, TX 78213

John Siemens
209 Lemonwood Drive
Castle Hills, TX 78213

Edward "JR" Trevino, II
209 Lemonwood Drive
Castle Hills, TX 78213

Alexander Wright
5707 W I-10
San Antonio, TX 78201

/s/ Anya Bidwell

CIVIL COVER SHEET

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SYLVIA GONZALEZ

(b) County of Residence of First Listed Plaintiff BEXAR (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Anya Bidwell, Patrick Jaicomo, William Aronin Institute for Justice; 901 N. Glebe Rd., Suite 900, Arlington, VA 22203; (703) 682-9302

DEFENDANTS

CITY OF CASTLE HILLS, TEXAS; EDWARD "JR" TREVINO, II; JOHN SIEMENS; and ALEXANDER WRIGHT

County of Residence of First Listed Defendant BEXAR (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983 and the First and Fourteenth Amendments to the United States Constitution

Brief description of cause: First Amendment retaliation claims against individuals and municipality

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ TBD at trial CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

09/29/2020 /s/ Anya Bidwell

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

EXHIBIT A

PETITION

EXHIBIT B

CASTLE HILLS POLICE DEPARTMENT OFFENSE/INCIDENT REPORT

CASTLE HILLS POLICE DEPARTMENT

Offense / Incident Report

GENERAL OFFENSE INFORMATION

Report Type: Cumulative Report

Agency CASTLE HILLS POLICE DEPARTMENT	Location 209 LEMONWOOD DRIVE
Case # 2019-06-0058	CASTLE HILLS TEXAS 78213
File #	
Description THEFT (All others)	
Incident Status ACTIVE	From Date/Time 05/22/2019 15:46
	To Date/Time 05/22/2019 18:30
	Report Date 06/19/2019 15:03
Reporting Officer TURNER 204, P.	Initial Rep. Date 06/19/2019 15:03

OFFENSE(S)

Offense	THEFT (ALL OTHERS)		
Statute	UCR		
Attempt Status	COMPLETED		
Offense Status	ACTIVE		
Location	GOVERNMENT/PUBLIC BLDG		
Computer	N	Alcohol N	Drug N
Weapons			
Criminal Activity			
Bias Type	Bias Motivation		

COMPLAINANT

Name TREVINO, JR			
Address			Phone - - -
Race	Ethnic	Sex	DOB
Height	Weight	Hair	Eyes
S.S.N. - - -	DL & St.	JRN#	

VICTIM(S)

Name TREVINO, JR			
Address			Phone - - -
Race	Ethnic	Sex	DOB
Height	Weight	Hair	Eyes
S.S.N. - - -	DL & St.	JRN#	
Type of Victim GOVERNMENT	Victim Of NONE	Injury Type	
Homicide/Assault Circumstance			

Case No: 2019-06-0058

SUBJECT(S)

Name	GONZALEZ, SYLVIAANN				
Address	103 WICKFORD WAY CASTLE HILLS, TX 78213		Phone	210-349-8899	
Race	W	Ethnic	H	Sex	F
Height	5'01"	Weight	170	Hair	GRY
S.S.N.	---	DL & St.	■■■■	JRN#	
Sub. Type	SUSPECT	Arrest ID		Citation #	
Notes					

Name	GONZALEZ, SYLVIAANN				
Address	103 WICKFORD WAY CASTLE HILLS, TX 78213		Phone	210-349-8899	
Race	W	Ethnic	H	Sex	F
Height	5'01"	Weight	170	Hair	GRY
S.S.N.	---	DL & St.	■■■■	JRN#	
Sub. Type	SUSPECT	Arrest ID		Citation#	
Notes					

PROPERTY

Property Category	DOCUMENTS/PERSONAL OR BUSINESS	Loss Type	EVIDENCE
Description	Petition		
Notes			
Make		Model	Style
Serial No / VIN			Color
Vehicle Year		Plate No/ State/ Type	
Loss Date		Loss Quantity	Loss Value
Rec Date		Rec Quantity	Rec Value
Drug Type		Drug Quantity	Drug UOM

Property Category	DOCUMENTS/PERSONAL OR BUSINESS	Loss Type	STOLEN/RECOVERED
Description	Petition		
Notes			
Make		Model	Style
Serial No / VIN			Color
Vehicle Year		Plate No/ State/ Type	
Loss Date		Loss Quantity	Loss Value
Rec Date	5/22/2019	Rec Quantity	Rec Value
Drug Type		Drug Quantity	Drug UOM

Case No: 2019-08-0058

Entered By TURNER 204, P.

Officer TURNER 204, P.

Supervisor

Case No: 2019-06-0058

Incident # 2019-06-0058

TURNER 204, P.

Report Written by Sgt. P. Turner #204

On May 24, 2019 I was made aware by Chief Johnny Siemens of an incident that occurred during a city council meeting (continuation) on May 22, 2019. Chief advised me that City Mayor-JR Trevino would be contacting me in reference to the filing of a criminal complaint which surrounds allegation(s) that a sitting City Council Member, identified herein as SP, took without consent, a document/petition which belonged to the City and at that time was in possession of Mayor Trevino. I will be reviewing any and all video footage relevant to this case.

This case is currently under investigation. Nothing further.

Case No: 2019-06-0058

Incident # 2019-06-0058 (1)

Zuniga 125,

On Tuesday, May 22, 2019 after sitting in on a continued Council Meeting which occurred at City Hall, 209 Lemonwood Dr. located in Castle Hills, Bexar County, Texas, I was summoned by Mayor Trevino and asked if I could ask Council Woman Gonzalez to check and see if she had picked up some paperwork that belonged to Mayor Trevino.

It was determined that Council Woman Gonzalez did pick up the paperwork and place it in the back of her meeting binder.

The paperwork was ultimately given to City Secretary M. Gonzalez.

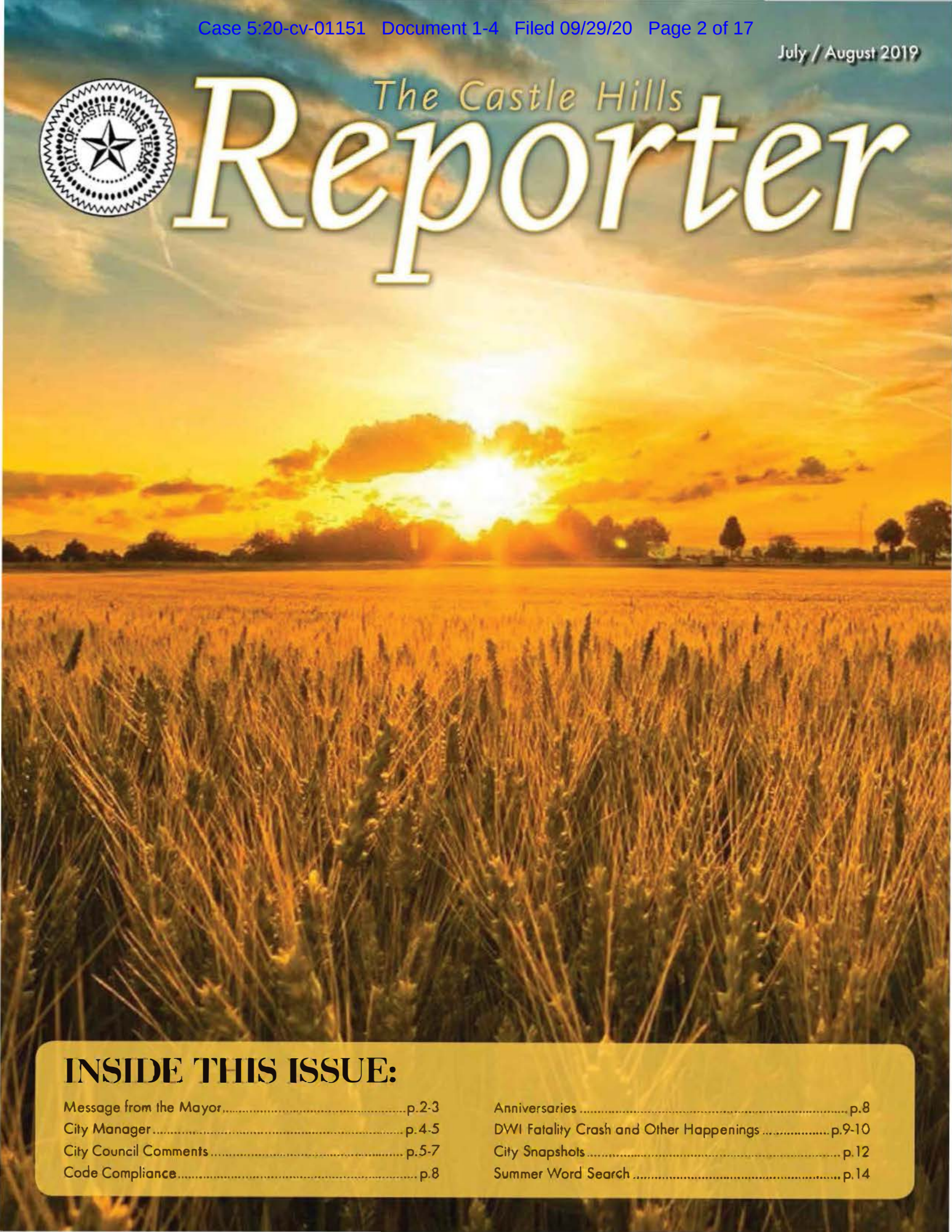
Capt. E. Zuniga

EXHIBIT C

CASTLE HILLS REPORTER NEWSLETTER



The Castle Hills Reporter



INSIDE THIS ISSUE:

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MESSAGE FROM THE MAYOR



Friends,

Words cannot express how honored and proud I am to be back serving our City. At the City Council Candidate Forum in April someone asked the question, if I would do anything differently this time on council. My initial reaction was that I would work equally as hard, but I remember what I did wrong on council. I wasn't able to tell enough residents about my struggles, failures, or successes. I will be working to share as much information as possible, so you know about my efforts to make our City better.

As most of you all know I sought out to buy my home in Castle Hills after growing up just down the street from our City. I long admired the small-town atmosphere, the perception of the tight knit community, and the idea that leaders could be accessible. We have great neighbors but the biggest value in Castle Hills is the people that work to give us the best possible services. I've said before that our employees are the lifeblood of our City and I strongly believe it. If it weren't for our outstanding services, Castle Hills would still be a great neighborhood, but it wouldn't be a City.

I have several goals and priorities as your Mayor. First and foremost is to ensure an open and transparent government which welcomes an array of perspectives. As the saying goes, I know what I know but I don't know what I don't know. This is where we need the citizens, the subject matter experts, to come forward to share your knowledge and independent thoughts. During my campaign as I was knocking on doors, I was amazed at the diversity of our residents. I assure you that no matter what your vocation is, you can make an impact in Castle Hills. While we might not always agree, I truly believe that the best decisions land in the middle of differing opinions. If you aren't sure if you have the time to commit or you aren't sure what you want to do, please reach out to me. The City has numerous boards and commissions with varying level of commitment needs, if you would like, let's have a cup of coffee and find the right one for you!

My next goal is to support our City staff. In walking the streets, I heard the residents loud and clear you love our City services which I vehemently agree. Every aspect of the Castle Hills's services is top notch; of course, we can always be better and working to make that happen is one of my priorities. Below are my thoughts and perspective as it relates to each of our City departments:

Continued on page 3

"The statements and facts contained in newsletter articles from the Mayor and City Council Members are their own personal views and should not be considered official city sponsored statements or facts and should not be relied upon as such."

CITY COUNCIL

JR Trevino
Mayor

Clyde R. McCormick
Place 1

Mark F. Sanderson
Place 2

Sylvia Gonzalez
Place 3

Lesley Wenger,
Mayor Pro-Tem, Place 4

Douglas Gregory
Place 5

CITY STAFF

Ryan Rapelye
City Manager, (210) 293-9673

Melissa L. Gonzalez
City Secretary, (210) 293-9681

Vacant
Finance, (210) 293-9674

James "Jim" Ladewig
Fire Department Chief
(210) 342-2341, ext. 217

Johnny Siemens
Police Department Chief
(210) 342-2341

Rick Harada
Public Works & Animal Control
Department Director
(210) 293-9676

ALL EMERGENCIES, EMT, FIRE & POLICE CALL 911

Non-emergency (210) 342-2341

Monthly Meetings

All meetings are held at City Hall unless otherwise posted.

City Council

2nd Tuesdays, 6:30 p.m.

Architectural Review Committee

1st Wednesday, 7:00pm
Upon Request

Board of Adjustment
4th Monday, 5:30 p.m.
Upon Request

Zoning Commission
1st Tuesday, 7:00pm
Upon Request

Crime Control & Prevention District
3rd Monday, 5:30pm
As Needed



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Castle Hills Resident



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Administration

While our office has seen turn over the years, our City Manager, Ryan Rapelye, has held the highest standards for all employees. In my opinion our administration could use some additional support. We regularly have residents come in and volunteer to help with permits. While the volunteers are always welcomed and much appreciated, I believe we find ourselves in a precarious situation when we are relying on volunteers to sustain day to day operations. Permits are essential to Castle Hills for a variety of reasons. Permits ensure that the City maintains a certain level of safety, adheres to building standards, and provides a uniform look to our community; as determined by our ordinances. More importantly, permitting which encompass plan review and inspections generates revenue for the City to support these services. Home renovation and growth in our business community generate additional revenue in our ad valorem and sales tax which not only help to sustain City services but provide additional funding for projects like streets, drainage, or special projects.

Fire

Thanks to a good friend of mine that works for the Southwest Texas Regional Advisory Council, I have been brushing up on my emergency response knowledge. In my education of the first responder world I have come to learn about some of the most important factors that affect life safety is, "minutes" in correlation to response time. When lives are on the line minutes are precious, which is why it is extremely valuable to have our Fire Department that is literally 3 minutes away from anywhere in our City. When the minutes count, you can count on Castle Hills Fire to be on scene quickly. If the recent events in our area have shown anything is that while we feel safe in Castle Hills, we are not immune to catastrophic events.

Police

Following up from that last line, it is important to drive home the point that mass casualties don't discriminate where they happen. Being able to have our Police department is another example of having the first responders when it matters. In walking the streets, many people think that we have a safe City. While I

would agree that we do have a safe City, I have seen firsthand how hard our officers work to keep our City safe, I am a regular on the police ride-along. In my ride-along, I have seen arrests for illicit drugs, people driving under the influence, stolen vehicles, and felons in possession of firearms. In all of the arrests, there is one common variable, we have the best possible and most courteous officers working to keep our streets safe. Aside from the officers on the street, we have a great team of investigators that produce results at all levels. Whether it stolen items being recovered or are a business that had an employee that embezzled over \$100,000.

Public Works

Last but certainly not least, the public works team; which is my personal favorite. Rick and his team work nonstop to keep our City clean, maintained, and safe potential hazards; with a shoestring budget. Most notably, the team are incredibly modest, humble, and work in the shadows. Rick has been with the City for nearly 20 years and has done all the jobs and continues to do all the jobs as necessary. Unfortunately, Public Works experiences a great deal of turn over, Rick takes responsibility of training all new hires on how to maintain safety, repair and operate equipment.

At the end of the day, I know we have some of best services around and some of the best department heads as well. My goal is to optimize service and ultimately provide the best value for our tax dollars. I'm confident with Mr. Rapelye's knowledge and experienced coupled with our relationships in the area, Castle Hills is poised for great things. I have had the good fortune of having numerous friends reach out to me so that their organizations can partner with Castle Hills to make our lives a little better. I look forward to sharing those individual details with you all in the upcoming months. Until then, if I can be of service please do not hesitate to contact me.

Yours in service,

JR Trevino

Mayor

JTrevino@CastleHills-TX.gov

210-559-5940





MESSAGE FROM THE CITY MANAGER

By Ryan D. Rapelye, City Manager

Development of the FY 2020 Budget!

The annual operating budget serves as a policy document, a financial plan, an operations guide, and a communications device for the City. It is the foundation for the City's allocation of resources toward service delivery plans to provide quality services and investments, and continued improvements. It also reflects incremental changes addressing service requirements and builds upon initiatives funded in prior years, while establishing new direction for programs. The budget document is also used to evaluate the effectiveness of City programs and services while providing extensive information on municipal operations.

As City Manager, I am tasked with the day to day operations of the city while carrying out the policies established by the council. As City Manager, it is my duty to prepare and submit to the council, prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the estimated amounts required for the efficient operation of each department of the city and the reasons for such estimated expenditures. The FY 2019 Proposed Budget which was eventually presented last August delivered a balanced budget with surplus for infrastructures and other capital expenses. The budget maintained the tax rate and afforded the opportunity to maintain current services levels for the residents of Castle Hills. The budget was defined and transparent and had recommended to maintain all positions to ensure City services and continue to improve all customer services to our residents.

During the development of the FY 2020 Proposed Budget process, we must ensure we continue to maintain and provide excellent municipal services to citizens, businesses, and visitors while ensuring appropriate funding and tracking of all financial resources. The City operates in a fiscal year that begins January 1 through December 31; developing the budget comprehensively relies on the City Council's efforts to provide input and direction as well as City departments. The process should always include our residents in having the ability and opportunity to speak on the budget during two public hearings before final adoption. Council as well as the public input is necessary to capture this information related to services and projects in the community but there must be a hierarchy of function. The budget must fund basic city services first and then plan effectively in order to address the long-range projects.

As is the case with most municipalities, personnel/ payroll costs encompass the largest single expense in a budget. Public safety requires round the clock staffing and specialized equipment which endures extensive wear and tear. The FY 2019 Adopted Budget covered core services such as Public Safety (Fire, Police and Dispatch), sanitation/streets within our Public Works, Municipal Court and Administration. The General Fund is the largest fund for the City and accounts for the general service and operations.

Last year in crafting the FY 2019 Proposed Budget, the focus was to maintain the City's core service and balance this with

an emphasis on customer service; maintain the City's reserve at an adequate levels, which should protect the City from future uncertainties; project revenues which was established at reasonable levels, utilizing historical data; and ensure department and program costs will be budget at a reasonable level, which parallel the cost of providing services. All of these factors will still be key in developing the FY 2020 Proposed Budget.

As a part of the development of the FY 2020 Proposed Budget, one of the focuses will be the need to review current capital projects for streets and drainage underway and utilize the 5-year CIP to program the necessary dollars for initiating new capital projects next year. In reference to minor projects, the Public Works Department has a budgeted line item for \$50,000 for minor street/drainage projects around the community and part of the development of the FY 2020 budget is to review the need to increase and utilize "on demand" contractors similar to what we did recently on South Winston and Lemonwood.

The City of Castle Hills currently has \$3.2 million in associated street/drainage funds for infrastructure projects, these funds are infused by revenue from sales tax, digital billboards and stormwater billing/fees. Consequently, the City will eventually need to find an alternate funding for future infrastructure projects. The City in the future may need to issue certificates of obligation to borrow, possibly leverage partnerships and/or attempt to obtain grant funding to offset future costs of projects. Recently, the City entered into a new long-term contract with a digital billboard company which will provide additional revenue for drainage and streets. Revenue from digital billboards is dedicated to drainage and streets and 80 percent of total revenue which equates to roughly \$3.9 Million for drainage over the life span of the contract. This revenue will be committed to future drainage projects and the new digital billboard will be erected in a commercial area near Loop 410.

The City of Castle Hills largest operating expense is the landfill fees in sanitation since we transport and dispose residential waste at a landfill outside of San Antonio. Over the years, the expenditure related to landfill fees has escalated in our sanitation department in association with the operating costs charged by the landfill. This may be different from other suburban cities around San Antonio which might contract these services for residential collection. In preparation of the FY 2020 Proposed Budget, staff has monitored this line-item expense and will review any necessary modifications which may need to be adjusted for this service.

As I have mentioned previously in articles, the City of Castle Hills has very good employees who are knowledgeable, talented and dedicated to their respected positions within the organization. As part of the development of the FY 2020 Proposed Budget, another focus should involve the need to recruit and retain personnel to the City of Castle Hills. As part of the development of the budget we should factor the need to have competitive salary and benefits.

Continued on page 5

"City Manager's" article continued from page 4

The City of Castle Hills is fortunate and unique to have a dedicated public safety team which encompasses fire, police and dispatch. Another area in the development of the FY 2020 Proposed Budget is to ensure we are addressing first responders needs in our organization and community.

Moving forward, the City will have a number of workshops on the development of the FY 2020 Proposed Budget. This will be an opportunity for citizens to provide input and comment. The FY 2020 Budget Calendar is available on the City's website. Every budget is an attempt to balance current and future needs within the framework of limited resources. Council and staff will work cooperatively in constructing the proposed budget based on these those guidelines.

As always, I would like to provide an update on our capital projects in the pipeline:

- **Phase III Antler Drive Roadway Improvements** – Construction commenced in early May, currently the installation of utility work is underway and next will involve the reconstruction of the roadway. Project is expected to take nine months.
- **Street Maintenance Program – Seal Coat Bids** – The City has identified street candidates and developed a list of street segments to include in the 2019 SMP. The 2019 SMP for Seal Coat Projects will include, but not limited to approximately 29 different streets segments and 4 alleys for an approximate roral length of 9.28 miles. The City did not receive any bids so our City Engineers will be reviewing and modifying the language in order to advertise again for bids.
- **Banyan/Glentower** – Engineering services and/or design is underway on the reconstruction of Banyan and Watershed III Drainage Improvement Phase I (Banyan Drive and Glentower Drive). Design is at 60% and the City will advertise for bids in September. Construction is expected to take nine months on these two projects.
- **Mimosa/Krameria to West Avenue** – Engineering services and/or design is underway for Watershed II Drainage Improvement Phase I (Mimosa/Krameria to West Avenue). Design is at 60% and City will advertise for bids in September.

Please contact me at rrapelye@castlehills-tx.gov or at the office at 210.293.9673 if you have any questions on projects or need assistance with services from the City of Castle Hills.



COUNCIL COMMENTS



CLYDE R. McCORMICK
PLACE 1

A. In my article last issue, I wrote about the City Manager-Council form of government. I had found the first ordinance (Ordinance 182, passed by our City Council in 1963) which I believed adopted the City Manager form of government for Castle Hills. In subsequent research, I believe I have discovered that our city has been operating in violation of state law ever since 1963. It appears that the original ordinance 182

was invalid and the use of the City Manager form was done illegally because there was no election as required by statute. I believe our city had and has no authority to hire a City Manager as described in Local Government Code Chapter 25. Here is why:

The original state law statute, sections 1164a-1 through 1164a-10, were enacted in 1943 and remained substantially unchanged until codified as Chapter 25 of the Local Government Code in 1987. An ordinance passed by city council is preempted by a conflicting state law and is not effective to alter Texas statutes. The relevant provision is 1164a-3 (now Ch25 sections 25.022 thru 25.025), which provides in part: "Before the provisions of this Act shall apply to and become operative in any city of this State, it shall be submitted for vote to the legally qualified electors of such city for adoption, and shall receive a majority of all voses cast thereon at such election." and requiring the election be brought upon a petition of at least 20 percent of the total number of votes cast for Mayor in the last election, etc... There was no petition and no election or vore. Therefore, the City Manager form of government described in Chapter 25 cannot legally be used in Castle hills and the provisions of Chapter 22 apply to our city government.

This view was confirmed by Attorney General Opinion letter JC-0544, Aug 14, 2002, summarized in part as follows: "General law cities are creatures of statute and have only those powers expressly granted by statute or necessarily implied therefrom. The legislature has expressly designated the Mayor of a general law city as the budget officer of a municipality and has assigned specific duties to the Mayor. The City Council has no authority to reassign the Mayor's statutory duties to another. The Mayor is expressly authorized to require other city officers to provide necessary information to him and may also delegate to city employees non-discretionary ministerial and administrative tasks necessary to carry out his statutory duties."

However, Section 25.051 was amended by the legislature in 2003 adding 25.051(b) which provides in pertinent part, as follows: "This chapter does nor limit the authority of the governing body of a general-law municipality to appoint and prescribe the duties of a municipal officer or employee under Chapter 22, 23 or 24." This appears to mean that the Governing body might appoint a "City Administrator" (or "City Manager"), under the provisions of Sections 22.071 and 22.072, to assist the Mayor, under the Mayor's direction and supervision, in carrying out day to day administrative functions and ministerial duties assigned to the Mayor by section 22.042 and Chapter 102 Local Government Code (LGC), and the Mayor retains his assigned

Continued on page 6



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Continued from page 5

responsibilities. Looks to me like Chapter 22 now applies.

B. A question was raised last month regarding removal of General-law City Mayors and City Councilmembers. Let me clear up -- there is NO Recall Election procedure available to the citizens of Castle Hills.

This is a very abbreviated summary of the relevant portion of Chapter 21 of the Texas Local Government Code (LGC). The general grounds for removal are incompetency, official misconduct and intoxication on or off duty (unless alcohol is prescribed). (LGC Section 21.025). A sworn pleading for removal may be filed with the district court in the officer's county of residence by any six-month resident of the municipality who is not under indictment in the county. (LGC 21.026). The court will require a bond to be posted by the complainant. (LGC 21.028). The petition must set out the specifics of the grounds for removal complained of in clear terms including the date, time and place. (LGC Section 21.026) The grounds for removal must have occurred since the last election of the officer, unless facts were unknown to voters at the time of the election, (LGC 21.024). The complainant must obtain citation and service on the officer sought to be removed. If the Judge denies citation, the matter is dismissed and costs shall be assessed against the complainant. (LGC 21.027) The officer shall have the right of trial by jury or may choose to be tried by the judge of the court. The case will be prosecuted by the district attorney assisted by the complainant. These matters have precedence over other court business. If the removal is not affirmed the officer remains in office and the court may assess damages and costs against the persons filing the removal action. Alternatively, the court may affirm the removal action. Either party may appeal the court's decision (LGC 21.027, 21.029-21.030). I don't know of any reported cases of removal under this statute.

In addition, per Section 21.031 LGC-any conviction of an elected officer of a felony, or of a misdemeanor involving official misconduct, operates as an immediate removal from office. The court rendering judgement shall include a removal order in the judgement. Further, in the event of an appeal, the court rendering the judgment may suspend the officer, if in the public interest, pending final judgment on appeal.

Once final, a judgment of removal makes the officer ineligible for re-election to the same office before the second anniversary of the date of removal. (LGC 21.032)

C. We need interested volunteers for a variety of city committees including zoning. Expressions of interest in any committee may be forward to the City Manager. Or, in the case of the Zoning Commission, to me, Clyde R "Skip" McCormick, 210-383-8941, cmccor5683@aol.com.

I attended a Grant Management program this week (at my own expense). Someone asked how things were, politically, in Castle Hills. My Response was "In our beautiful little community we enjoy all the benefits of the National Political Dysfunction!"

Someone came up to me last month and actually apologized for comments made during a council meeting. Nicest thing that has happened to me recently. Been a tough year so far. Are you interested in good government? Want to be an active participant? Please contact me Clyde R "Skip" McCormick, 210-383-8941, cmccor5683@aol.com.

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MARK F. SANDERSON
PLACE 2

Greetings!

As your new Alderman, I thought I'd introduce myself and give you bit on my family and me. Currently, I work as a software engineer in a remote capacity for a DC based engineering company specializing in highly complex software systems. It is a job that is quite demanding, requiring that I keep up to date on the latest and greatest technology.

Visitors to my house will notice that I enjoy technology, and have many 'Smart Home' toys that help us enjoy our home. My hobbies include Computers and Technology (of course), High-Powered Amateur Rocketry (NAR Level One Certified), Ham Radio (General/KE5BAY), racing RC Trucks and flying RC Airplanes and projects around the house. Although I'm not current, I am also a private pilot as well (SEL/VFR). You might see me tooling around the neighborhood on my Red Harley-Davidson Ultra Ltd on which I do my own repair work.

My wife Rassel is from the Philippines and earned her US Citizenship nearly two years ago in a very emotional Austin, Texas ceremony. She is a woman of many talents, as evidenced by her amazingly artistic Easter celebration that she has put on for friends and neighbors past 3+ years here in Castle Hills. Fluent in no less than five languages (Visayan, Capiznon, Tagalog, Hiligaynon/Illonggo and English) as well as a working knowledge of Chinese and Japanese her language skills surpass just about anyone I know.

As a political newcomer, I am quite lucky to have a wife who is also an experienced political worker in her native Philippines. As teacher and mother she is unsurpassed in my eyes. She is mother to our only child, Charles Frederick, the focus of our lives. I have certainly married up. Charles, our son, is five years old, and is a 'graduate' of the Christian School of Castle Hills Pre-School and is now on his way to starting Kindergarten class in Castle Hills Elementary. His hobbies include running his RC truck in the back yard, learning to read and write, and playing with his monster trucks in the sand and dirt. Thankfully he has his mother's looks and great attitude!

It will take a little while for me to settle into my new role as your representative. I am both humbled and awed at the responsibility that you as citizens have entrusted in me. Please be patient and keep in mind that I'm not, and never will be, a politician. My habit of 'shooting from the hip' will be distressing to some, and I apologize in advance to those who might be offended. It is my hope that we will all learn how to accept each other's differences while feeling free to openly criticize policy matters that are important to us all. Public debate should be passionate, open and honest with no fear of humiliation or embarrassment.

My goals are for us to have a civil environment during council meetings that will not be intimidating or disrespectful. I hope to help pass into law new zoning restrictions that will help protect our residential quality of life. We have much work to do on eliminating illegal residential businesses. A lot of work still remains on streets, flooding and making Castle Hills as more family-friendly environment to raise our children in.

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Feel free to call me at any time 210 848 0661. Leave a voice mail if I don't answer; I will return your call as soon as possible. Feel free to email me, but I don't believe that email is the best medium to air grievances and solve problems. I appreciate the in-person approach. I have reserved Sunday afternoons for discussing constituent issues. I look forward to being your advocate!

Mark F. Sanderson
(210) 828-0661
msanderson@castlehills-rx.gov



SYLVIA GONZALEZ
PLACE 3

New Zoning Commission Members

One of the first actions of the new City Council was the nomination and approval by Council of Zoning Commission members to serve two year terms. The process this year was for each Councilmember to nominate a candidate, and Council then voted to approve (or not) each nomination.

I nominated Joe Rodriguez to serve as Chairman of the Zoning Commission, and he was approved. Lesley Wenger nominated Jana Baker, Douglas Gregory nominated Margo Pena and Mark Sanderson nominated Todd Herman—all were approved.

The Zoning Commission is composed of five members and two alternates. Since Skip McCormick's nominations were not approved, there is an open seat on Zoning until Mr. McCormick provides a nomination that the majority of Council approves.

In order for the Zoning Commission to be complete in the interim, two alternate members were nominated and approved: John Hernden and George Booth who can fill in for the 5th seat or for a regular member who is unable to attend a Zoning Meeting.

The Zoning Commission is required by State Law if a city has zoning regulations. It is an advisory board and makes recommendations to Council on all matters related to our zoning codes and individual requests from property owners for the proper use of their property according to city policy.

We have a number of important issues coming up that were not finalized by the prior Zoning Commission:

- A policy on short-term rentals if we decide to begin allowing such uses as Airbnb's.
- Prohibition of impound lots within the City of Castle Hills limits.
- Acceptance or rejection of changes proposed by the Zoning Review Committee—a process also required by State Law—most of which have been waiting for a recommendation for over two years.

The new members of the Zoning Commission are all long-term homeowners who have opposed unwanted development in their neighborhoods and believe in protecting the special residential qualities desired by the majority of their neighbors.

Sylvia Gonzalez
(210) 912-6664
sylvia.gonzalezl@yahoo.com



LESLEY WENGER
Mayor Pro-Tem, PLACE 4

What Purpose do Fees Serve?

Some of the most common complaints from residents of Castle Hills have to do with fees the city imposes, particularly the fees imposed by Public Works for pickup of tree limbs and extraordinary items—many of which homeowners consider to be arbitrary. Part of the problem is that the fees that have been approved by Council are no longer posted on the website, so there is no easy way for a homeowner to determine if these fees are appropriate or accurate. But then there are all the other fees the city imposes which, in many cases, serve no purpose other than to collect money. I raised this issue at the January 8, 2019 Council Meeting, to consider eliminating tree trimming and roofing permit fees for starters. However, Council wanted to know what the impact would be on the Budget.

The opportunity to re-consider all permit fees, and how they benefit residents, will come up in our Budget Workshops this year, which begin in July. Usually most citizens do not attend these workshops, but this is when Council determines how we spend your tax money for the coming year. The two permits I brought up in January, along with many others, do not protect residents. In the case of roof permits, Council voted, in 2016, to reduce the fee from a percentage of the proposed cost to a flat fee of \$100 plus \$50 for reinspection which is cursory at best. In the event that you have a problem with a new roof, the city takes no responsibility—that is a matter between you and the roofing company. San Antonio does not issue or charge for roofing permits. Tree permits, which are viewed as a way to prevent oak wilt and other tree damage, also do not serve that purpose. They are issued for one month, to allow for tree trimmers' availability and scheduling changes. That means that the city has no idea what day the trimming is taking place and no one will be checking to make sure the tools used for cutting are clean or that the cuts are painted—that, again, is between you and the tree company you hire. The only function the city plays is to not issue permits for companies that may have been found disreputable—something that can be determined, if such a list exists, by a phone call to City Hall or a posting on the city website. On the other hand, some permits, for new construction, are useful to maintain structural and safety compliance: electrical wiring and new plumbing, if not done correctly, can cause fires and flooding which could impact adjoining properties. Your experience with city fees will be useful in determining which fees should be maintained and which should be eliminated.

Lesley Wenger | (210) 377-3636 | wengertx@satx.rr.com

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Code Compliance

Happy 4th of July. I would to acknowledge all of our veterans and active duty service members and their families. Thank You for service and sacrifice to our Great Nation!

This month's topic will be trees. When a tree falls from one private property onto another private property, the duty to remove the fallen debris is with the property owner upon which the debris has fallen onto. That the debris originates from a neighboring property is not relevant for the purposes of a code violation as there is no language in the code that addresses this sort of civil issue. The City cannot and will not get involved in a matter of civil damages not caused by public property and therefore cannot advocate for one side or the other in these disputes.

As for tree removal in emergency circumstances, the code states that "Trees in need of emergency pruning or removal that threatens lives or property due to damage beyond the control of the owner, may be trimmed or removed without a permit. ...All wounds on oak trees shall be painted immediately or as soon as weather and/or daylight allows (see section 48-104), and debris must be removed within 48 hours." Section 48-77 (e) and Sec. 48-56 states that "In the event of a dead, dying or diseased tree with an infestation threatening other trees, or the tree(s) pose a hazard to life or property which cannot be mitigated without its removal, the city manager may authorize the immediate removal of the tree(s) without the need for involvement by the architectural review committee."

If you plan a construction project that involves the removal of trees, please note that such a project will need to come before the Architectural Review Committee as referenced in Sec. 8-48 "(c) If the project requires removal of trees, this request must be clearly documented in the architectural review committee application, and payment for the tree removal as provided in the city feeschedule shall accompany the application, and supporting documentation per Chapter 48 Article II shall be provided."

Any other tree removal request is addressed in Sec. 48-55 which states that "The city architectural review committee shall review and hold a hearing on all tree removal requests when required by this Code. The architectural review committee shall make a recommendation to the city council for approval, approval with modifications, or disapproval of every request for protected or heritage tree removal.

Though not all-inclusive, the following are examples of tree removal requests that may be approved by the architectural review committee:

1. Trees so located as to prevent access to the property or as to preclude reasonable and lawful use of the property;
2. Dead, dying or diseased such that recovery is not practicable.

Thank you for your time and as always, you can always file against your neighbor in Municipal Court if you feel that the City Code does not represent your personal interests.



ANNIVERSARIES:

Police Department Anniversaries

Dispatcher Travis Lowe, 6/6/1996 – 23 years

Sgt. Paul Turner, 6/1/2005 – 14 years

Sgt. Ronald Singleton, 6/12/2012 – 7 years

Chief Johnny Siemens, 6/17/2013 – 6 years

Officer Daniel Cossu, 6/15/2015 – 4 years

Cpl. Tony Crawford, 6/26/2015 – 4 years

Officer Nathaniel Peck, 6/26/2015 – 4 years



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Passports

The City of Castle Hills is now officially able to accept paperwork for U.S. passport applications at city hall. The passport application services are available on a walk-in basis:



- Monday: 8:30 am to 2 pm;
- Wednesday: 8:30 am to 4 pm;
- Friday: 10 am to 2 pm

Appointments are available for Saturdays from 8:30 a.m. to 1:30 p.m.

To schedule an appointment call (210) 293-9674 or (210) 342-2341.

For more information regarding how to apply for or renew your passport, please visit the U.S. Department of State website at: <https://travel.state.gov/content/travel/en/passports.html>

DWI Fatality Crash and Other Happenings

On June 9th police officers responded to the 1700 blk NW Loop 410 for a rollover accident. When the officers arrived, they began to assist the injured driver and began the crash investigation. At that point tragedy struck. A driver of another truck lost control and struck two patrol vehicles. The out of control vehicle continued towards an officer walking on the shoulder of the highway, causing him to have to jump over the concrete barrier, falling 20 feet to the frontage road below to save his life. The vehicle continued towards our other officers as well as a group of good Samaritans tending to the driver of the original crash. This caused another officer and two civilians to jump from the highway, falling 20 feet as well, to the frontage road below. The vehicle struck two other civilians, causing the death of one and seriously injuring the other. The investigation of the second crash led officers to believe that the driver was intoxicated at the time of the accident. Both officers that jumped from the highway to the frontage road below sustained injuries and were transported to the hospital. Both officers have been released from the hospital and are recovering.

One person's decision to drink and drive contributed to a tragedy that effected so many families. This poor choice impacted the good Samaritans, who were trying to provide help to an injured crash victim, along with their families; it effected the police officers that were injured and their loved ones who must help them in their recovery. Further, the police department was impacted having their colleagues injured. Lastly, it has affected our community, especially those who have always stood strong in support of their police officers and department.



The outpouring of support for the injured officers and the police department has definitely assisted putting this event behind us. This

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Hope out of Tragedy



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incident has brought the Castle Hills Community together in support for all the victims of this senseless tragedy to a level I have personally never seen in my nineteen years of employment with the city. Many members of the community offered their support for the officers by making monetary donations, sending cards, or bringing food to the officers. Thank you all so much.

The 100 Club of San Antonio also provided substantial support from their agency to the officers and their families. This outpouring of support to the injured officers and the police department has definitely assisted putting this event behind us.



Officers and Dispatchers coming together on a Saturday to help with the lawn work for the injured officer at his home.

This tragedy has strengthened the resolve of the members of the police department to continue to arrest drivers, who are intoxicated, in an effort to keep the community safe. Remember to plan while you can and have arrangements made if you are going to consume alcoholic beverages and need a means to get home. Please do not Drink and Drive.

Three officers were recognized by the Mothers Against Drunk Driving (MADD) for their commitment to DWI Enforcement during 2018 and the police department was also recognized as an outstanding agency for their collective efforts as well. The department, as well as its members, have been recognized for several consecutive years for consistency in DWI enforcement.



Officer Alcalá, Officer Earlywine, and Sergeant Davila were recognized by MADD in the picture below.



POLICE DEPARTMENT ANNIVERSARIES

- Dispatcher Travis Lowe, 6/6/1996 – 23 years
- Sgt. Paul Turner, 6/1/2005 – 14 years
- Sgt. Ronald Singleton, 6/12/2012 – 7 years
- Chief Johnny Siemens, 6/17/2013 – 6 years
- Officer Daniel Cossu, 6/15/2015 – 4 years
- Cpl. Tony Crawford, 6/26/2015 – 4 years
- Officer Nathaniel Peck, 6/26/2015 – 4 years



Congratulations Sgt. Spears with your retirement after 20 years of service and thank you.



Officer Peck and Corporal Tomblin taking a pit stop for some ice-cold lemonade.



The Door Church graciously provided lunch for First Responders.

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Assume there's a danger. Warn others and leave the area quickly. **Do NOT** light a match or use electrical appliances including light switches, garage door openers, doorbells, radios, TVs or any phone. These items can ignite natural gas.

3. REPORT THE LEAK.

From a safe location, call CPS Energy at 210-353-HELP (4357) and dial 911. **Do NOT** assume someone else will report the leak. **Do NOT** go back to the leak area until our personnel say it is safe to return.

2019 National Night Out



National Night Out is a nationwide event sponsored by the National Association of Town Watch (NATW). Registration is free and is now open. National Night Out will take place **Tuesday, October 1, 2019**. Most events start around 6:00 PM and are scheduled to last until 10:00 PM.

Registration is required if your community is planning on hosting its own events or activities. From gatherings to block-parties to snacks and visits by police officers, neighbors are encouraged to come outside and meet one another and learn about happenings in their neighborhood. This is a great opportunity to exchange information that can heighten crime and drug prevention awareness while letting criminals know that neighborhoods are organized and fighting back.

National Night Out, an annual community-building campaign, promotes partnerships between citizens and police and encourages the creation and participation in neighborhood watch groups.

Online registration is now open at <https://natw.org/registration>. Get registered today and give yourself plenty of time to plan a successful event!



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EXHIBIT D

COMPLAINT/AFFIDAVIT FOR WARRANT OF ARREST

CM 06 17 15

COMPLAINT / AFFIDAVIT FOR WARRANT OF ARREST

Warrant No.: _____

THE STATE OF TEXAS §
COUNTY OF BEXAR §

THE UNDERSIGNED AFFIANT, BEING A PEACE OFFICER UNDER THE LAWS OF THE STATE OF TEXAS, AND BEING FIRST DULY SWORN, ON OATH MAKES THE FOLLOWING STATEMENTS AND ACCUSATIONS:

1. Affiant believes that a specific criminal offense has been committed against the peace and dignity of the state, to wit:

Offense Name: Tampering with Governmental Record
Offense Statute: §37.10(c)(1), Penal Code (MA)
TXDPS Offense Code: 73990623
Bexar County Offense Code:
Offense Date: 05/22/2019

2. Affiant believes, and hereby charges and accuses, that the above-listed offense was committed in Bexar County, Texas on or about May 22, 2019 by the following named and described individual:

Sylvia Ann Gonzalez, a white female, Date of Birth: 08/30/1946 (SID #: 1122375)

3. Identification and qualifications of Affiant:

My name is Alex Wright and I am the Affiant herein. I am a peace officer under the laws of the State of Texas and am currently commissioned as a Special Detective with the Castle Hills Police Department ("CHPD") in Bexar County, Texas. In my role as a Special Detective I am assigned, as needed, to conduct investigations which might otherwise be considered sensitive, or delicate, either due to the nature of the crime or because of the parties involved. I have over twenty (20) years of experience as a police officer and hold a Master Peace Officer license from the Texas Commission on Law Enforcement. I am also a licensed police instructor and field training officer. During my tenure as a Texas peace officer I have received extensive training and experience in the field of criminal investigation and have participated in numerous investigations into a wide variety of both state and federal criminal law violations. I also have a Bachelor of Science degree in Criminal Justice with a major in Law Enforcement from Southwest Texas State University. I also have a Juris Doctorate degree from St. Mary's University School of Law, and I am licensed to practice law in the State of Texas and 14 other states.

4. I conducted interviews, obtained statements from witnesses, and reviewed evidence during which the following information and facts were obtained, causing me to have probable cause for the above-stated beliefs and accusations:

On June 18, 2019 I was contacted by CHPD Police Chief Johnny Siemens and was assigned as the lead investigator on this case, bearing CHPD Case No. 2019-06-0058.

AW

I obtained the initial offense report which was written as a "Theft" report. The report referenced some petitions belonging to the city which were allegedly stolen by a Castle Hills alderman named Sylvia Ann Gonzalez (herein sometimes "Gonzalez" or "Defendant Gonzalez"). The Complainant is the current mayor of the City of Castle Hills, Texas, Edward "JR" Trevino II (herein sometimes "Mayor Trevino"). Another primary witness is CHPD Captain Esteban "Steve" Zuniga (herein sometimes "Capt. Zuniga").

On June 24, 2019 I met with Mayor Trevino (as the original Complainant) and interviewed him about the events in question, and he responded by providing me with the following facts:

Defendant Gonzalez was, until July 9, 2019, serving as an alderwoman for the City of Castle Hills, Texas. From her very first meeting in May of 2019 she (along with another alderwoman) has been openly antagonistic to the city manager, Ryan Rapelye, wanting desperately to get him fired. Part of her plan to oust Mr. Rapelye involved collecting signatures on several petitions to that effect.

On the evening of May 21, 2019 a public meeting of the Castle Hills City Council was held at city hall, located at 209 Lemonwood Dr., Castle Hills, Bexar County, Texas 78213. This meeting was presided over by Mayor Trevino. During the public commentary portion of the meeting, a citizen presented twenty-six (26) separate petitions (the "Petitions") to Mayor Trevino which each called for the removal of the city manager Ryan Rapelye (under the guise of "FIX OUR STREETS"). As the presiding officer of the city council meeting, Mayor Trevino accepted the Petitions as city property and put them among his papers for filing with the city secretary at the conclusion of the meeting. At that moment the Petitions became city property and "governmental records" as defined by §37.01(2), Penal Code.

Also during the public commentary portion of the meeting, a citizen named Chalene Martinez took the microphone and said that Defendant Gonzalez had personally come to her home to solicit her signature upon one of the Petitions. Ms. Martinez then publically accused Gonzalez of misleading her regarding the actual nature and purpose of the petitions, and said that Gonzalez asked her to sign under false pretenses. The council meeting went long and due to the lateness of the hour Mayor Trevino announced a recess and said that the meeting would resume at 4pm the next day, May 22, 2019.

The following day, Mayor Trevino arrived early for the continuation of the city council meeting. In light of the serious allegations made by citizen Chalene Martinez the night before, Mayor Trevino used this time to start sifting through the Petitions in search of any anomalies. As the 4pm meeting start time drew near, Mayor Trevino attached a large black binder clip to the stack of 26 Petitions and placed them on top of his other paperwork, all of which was in his working area on the desktop of the dais (the "dais" is the bench at which the city council sits). During the meeting he noticed that the Petitions were gone and he assumed the city secretary had collected them. He also noticed that an identical binder clip and paper stack size was now inside Gonzalez' large 3-rng binder, but thought it to be a coincidence. Defendant Gonzalez' seat on the dais is to the right of, and adjacent to, Mayor Trevino's seat.

At the end of the meeting the city secretary asked Mayor Trevino for the original Petitions, causing him to realize that she hadn't collected them. These were the original Petitions, carried over from the previous night's meeting and were still in Mayor Trevino's possession as the presiding officer who received them. At this point, recalling seeing the same binder clip and paper stack size inside Defendant Gonzalez' 3-ring binder, Mayor Trevino suspected that Defendant Gonzalez had taken the Petitions. Mayor Trevino then waived to get the attention of CHPD Capt. Zuniga who was near the back of the room helping to shut off lights. Capt. Zuniga walked to where Mayor Trevino was standing on the dais.

(Note regarding Capt. Zuniga's presence at the meeting: Each city department sends a representative to city council meetings so they are on-hand to answer any questions, as needed. On this particular evening Capt. Zuniga was representing the police department in the place of Chief Siemens who could not attend.)

Mayor Trevino explained to Capt. Zuniga that he suspected Defendant Gonzalez had taken the Petitions. Mayor Trevino then observed as Capt. Zuniga asked Defendant Gonzalez if she had taken the Petitions, which Gonzalez promptly denied. Capt. Zuniga then asked Defendant Gonzalez if she was sure, at which point Gonzalez walked back to her spot on the dais. Once back at her seat with her 3-ring binder in front of her, Defendant Gonzalez opened her 3-ring binder and then started slowly flipping through its contents, stopping before reaching the black binder clip at which point she declared, again, that she did not have the Petitions. Mayor Trevino explained that the petitions were clearly visible but Gonzalez was just trying to avoid "finding" them. Mayor Trevino and Capt. Zuniga then both pointed to the clearly visible black binder clip at the back of Defendant Gonzalez' 3-ring binder. At that point Defendant Gonzalez simply pulled the black binder clip out of her 3-ring binder, revealing that these were indeed the missing original Petitions. As she produced the Petitions, Gonzalez never questioned that they belonged to the city or tried to claim that they were hers. As the incident drew to a close, the Petitions were given to the city secretary for safekeeping as governmental records.

On June 27, 2019 I met with Esteban "Steve" Zuniga, a Captain with the Castle Hills Police Department, and interviewed him about the events in question, and he responded by providing me with the following facts, which I found to be consistent with Mayor Trevino's statement of facts:

In addition to supporting the account of events provided to me by Mayor Trevino, Capt. Zuniga's account also mentions additional observations. Defendant Gonzalez twice denied having the Petitions. When Gonzalez did, eventually, pull the petitions out of her 3-ring binder, Capt. Zuniga reports that Gonzalez told him that she thought those were extras. But Capt. Zuniga found that statement odd because, if true, then he questioned why she twice told him, only moments before, that she did not have the Petitions in her binder. Further, if she thought she had a right to them (because they were copies) then surely she would have spoken up when asked. Also, Defendant Gonzalez moved very slowly while seemingly pretending to look for the Petitions in her 3-ring binder, which she ultimately found and produced.

I then watched the surveillance videos from the council chambers which covered the timeframe of the events previously described (which had previously been secured as evidence by officers prior to my assignment to the case). This is what I observed:

Video 1 – Petitions Taken:

The time marks listed below do not refer to the time of day, but rather they refer to the minutes and seconds into the video at which that scene is visible.

4:34: For the first time this day, Gonzalez approaches her seat on the dais (to the right of, and adjacent to, Mayor Trevino's seat). At that time, Mayor Trevino is standing near his seat, but is facing the other way while engaged in a conversation. Gonzalez then moves to her left in order to reach over Mayor Trevino's stack of documents.

4:36: After looking around, Gonzalez picks up the Petitions from on top of Mayor Trevino's binder and quickly pulls them toward her seat. There is no mistaking that the Petitions were in the Mayor's pile of documents, not Gonzalez' pile.

4:41: Gonzalez turns the Petitions toward her, looks at them directly, and begins flipping through pages. There is no mistake—Gonzalez knows what she is holding.

4:43: Gonzalez organizes the Petitions by knocking them on the desk.

4:47: Gonzalez moves the Petitions to the desktop in front of her, lays them down on the desk to the right of her binder, and then opens her binder up so that the cover obscures the Petitions.

4:51: Mayor Trevino notices activity near his binder and reaches over to pick his binder up, not realizing that Gonzalez has just taken the Petitions.

This video clearly shows Defendant Gonzalez intentionally concealing and removing the Petitions from city custody.

Video 2 – Petitions Recovered:

The time marks listed below do not refer to the time of day, but rather they refer to the minutes and seconds into the video at which that scene is visible.

1:40: It is evident that Mayor Trevino has realized that he no longer has the Petitions and returns to his seat on the dais to look for them.

1:43: Mayor Trevino bends over, looks at Gonzalez' binder, and confirms that the large binder clip is still inside her 3-ring binder. This is consistent with Mayor Trevino's sworn statement wherein he said he recalled seeing the binder clip in Defendant Gonzalez' 3-ring binder. At this same time Defendant Gonzalez can be seen at the far left side of the frame.

1:47: Mayor Trevino waves for Capt. Zuniga to come his way, toward the dais.

2:05: Mayor Trevino is talking to Capt. Zuniga.

3:16: Capt. Zuniga has walked to Defendant Gonzalez and is talking to her.



4:00: Defendant Gonzalez has returned to her seat position at the dais and has pulled her 3-ring binder toward her.

4:06: Defendant Gonzalez slowly flips through the contents of her binder, stopping before reaching the black binder clip. It appears as though Defendant Gonzalez was trying to avoid "finding" the Petitions which she has already affirmatively stated that she does not have.

4:20: Defendant Gonzalez appears to be running out of papers to slowly flip through and will soon reach the Petitions.

4:24: Mayor Trevino and Capt. Zuniga finally just point to the obvious binder clip containing the Petitions. It appears to me that Defendant Gonzalez realized that she could pretend no longer, so she simply pulled the Petitions out of her binder without further hesitation.

4:46: The Petitions are given to the custody of the city secretary for safekeeping as governmental records.

After watching these videos I was able to confirm the accounts of the events as they were given to me by Mayor Trevino and Capt. Zuniga.

Of particular note to me was that these videos show several furtive movements by Defendant Gonzalez. Gonzalez appeared to be purposefully avoiding "finding" the Petitions by feigning her failure to notice the obvious binder clip which those around her could clearly see. Also, she moved extremely slowly while looking through her 3-ring binder, only thumbing through a few pages at a time, much more slowly than someone would do if they were trying to prove that they didn't have the Petitions. It seemed as if she was wasting time hoping for some form of rescue.

On July 2, 2019 I met with Capt. Zuniga and obtained his sworn statement of the events, which was wholly consistent with the facts he provided to me during our previous interview.

On July 7, 2019 I met with Chalene Martinez, the citizen who spoke out against Gonzalez at the May 21, 2019 city council meeting. I interviewed her and obtained her sworn statement regarding the following events: Gonzalez had personally gone to Ms. Martinez' house on May 13, 2019 to get her signature on one of the petitions under false pretenses, by misleading her, and by telling her several fabrications regarding Ryan Rapelye which Ms. Martinez felt was damaging to his reputation. Although Defendant Gonzalez' interaction with Ms. Martinez does not have a direct bearing on the offense charged herein, it is relevant as it supports a motive for Defendant Gonzalez' desire to steal the petitions—before further scrutiny could be brought to bear upon Chalene Martinez' signature thereon.

On July 8, 2019 I met with Mayor Trevino and obtained his sworn statement of the events, which was wholly consistent with the facts he provided to me during our previous interview.

I also contacted Gonzalez several times during the course of my investigation, offering her the opportunity to give me her version of events; however she refused to talk to me.



- 5. My interviews and investigation of the witnesses discussed above revealed them to all be credible and reliable, and I find their reputations for truth and veracity to be excellent.
- 6. I then compared the facts which I had learned during my investigation with the elements of the offense charged, above, and found that the elements had been satisfied, as follows:

Tampering with Governmental Record

§37.10(c)(1), Penal Code (MA)

A person commits an offense if the person:

- 1. intentionally
- 2. destroys, conceals, removes, or otherwise impairs
- 3. the verity, legibility, or availability
- 4. of a governmental record

"governmental record" means anything belonging to, received by, or kept by government for information. §37.01(2), Penal Code.

In this case, the governmental records are the 26 Petitions which Defendant Gonzalez intentionally concealed and/or removed from being available.

Conclusion:

After reviewing the above-described facts, circumstances, witness statements, surveillance videos, and other evidence, and after taking into account all statutory exceptions to criminal liability, if any, I have concluded my investigation in this case. I have good reason to believe, and do believe, that **Sylvia Ann Gonzalez** committed the above-listed offense, against the peace and dignity of the state.

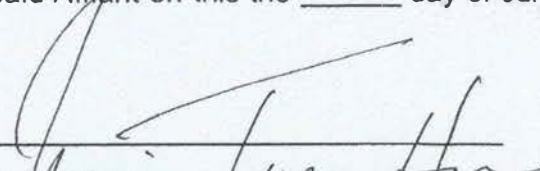
WHEREFORE, I hereby pray for the issuance of a warrant of arrest authorizing the arrest of **Sylvia Ann Gonzalez** and charging that she has committed the above-listed offense.

Respectfully submitted,



Alex Wright, Affiant
Special Detective, Badge #410
Castle Hills Police Department

SUBSCRIBED and SWORN to before me by said Affiant on this the 17 day of July, A.D., 2019, at 2:32 o'clock P.M.


Hon. Marvin Trevino
Judge, 175 Judicial District Court
Bexar County, Texas