



**SEAGOVILLE CITY COUNCIL
MEETING AGENDA
MONDAY, DECEMBER 5, 2016**

WORK SESSION – 6:30 P.M.
Council Chambers, City Hall
702 N. Hwy 175

AGENDA

1. Staff updates
2. Discussion of agenda item(s)
3. Presentation from Municipal Services Manager Robyn Mota with Republic Services regarding holiday collection schedule.
4. Adjourn

REGULAR MEETING – 7:00 P.M.
Council Chambers, City Hall
702 N. Hwy 175

AGENDA

Invocation
Pledge of Allegiance
Mayor's Report
Recognition of Visitors / Proclamations / Presentations
Citizens Public Comment Period

[Each speaker will be allowed six (6) minutes to address the council on any item on the agenda except for Public Hearing items]

AGENDA (cont'd)

CONSENT AGENDA

- 1C. Approval of minutes.

REPORTS/RECOMMENDATIONS/REQUESTS

2. Discuss and consider prohibiting the use of an Electronic Hand-Held Mobile Communication Device while operating a moving vehicle.
3. Receive Councilmember Reports – Items of community interest regarding which no action will be taken, as authorized by Section 551.0415 of the Government Code.
4. Receive Citizen Comments – Citizens may speak 6 minutes each on any matter, other than personnel matters, or matters under litigation.
5. Receive Future Agenda Items – Items to be placed on a future agenda which no action or discussion will be taken at this meeting.
6. Recess into Executive Session in compliance with Texas Government Code Section 551.074, Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: Interim City Secretary.
7. Discuss any item and/or take any action necessary as a result of the Executive Session.
8. Adjourn.

Posted Thursday, December 1, 2016 by 5:00 P.M.



Dara Crabtree, City Secretary

As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

The City of Seagoville does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. If you have a request for services that will make this program accessible to you, please contact the City of Seagoville at least 72 hours in advance at (972) 287-6819. (TDD access 1-800-RELAY-TX)

DATES TO REMEMBER

- Monday, December 19, 2016 @ 7:00 p.m., City Council meeting.
- Monday, December 26, 2016, City offices closed in observance of Christmas Day.

INVOCATION

PLEDGE OF ALLEGIANCE

MAYOR'S REPORT

***VISITOR RECOGNITIONS /
PROCLAMATIONS / PRESENTATIONS –***

Proclamation – Clarence Gilbert Massey

Police Department presentation (James Sudduth)



Proclamation

WHEREAS, on behalf of the City of Seagoville, I wish to record our deep sorrow over the passing of Mr. Clarence Gilbert Massey on November 13, 2016; and

WHEREAS, Mr. Massey was a beloved father, grandfather, great-grandfather and friend of the community; and

WHEREAS, Mr. Massey was born in Lawrence, Texas on April 1, 1924; and

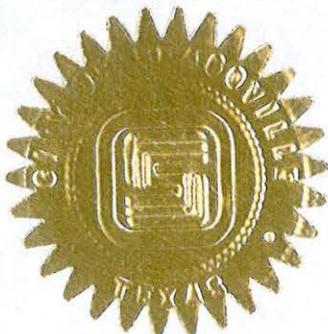
WHEREAS, Mr. Massey was survived by his wife Joyce Massey, three daughters, Sheila, Brenda and Gilda, 9 grandchildren, 22 great-grandchildren and many other family members and friends; and

WHEREAS, Mr. Massey was a highly decorated war veteran serving in the US Army 43-46, 188th Glider Infantry that became the 81st Bomber where he was a light machine gunner; and

WHEREAS, Mr. Massey received 3 bronze medals and 1 bronze arrowhead personally from that campaign and a bronze star and ribbon from the Philippine Liberation along with good conduct medal and overseas bars; and

WHEREAS, Mr. Massey was a longtime employee of Texas Instruments and enjoyed making all sorts of wood crafts and selling them;

NOW, THEREFORE, I, Dennis K. Childress, Mayor of the City of Seagoville, on behalf of the entire City Council, wish to express our sincere appreciation to Mr. Clarence Gilbert Massey for his unwavering dedication and service to our country and extend to his family our sincere sympathy upon his passing.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Seagoville, Texas to be affixed this 5th day of December, 2016.

A handwritten signature in blue ink, appearing to read "D.K. Childress".

Mayor, The City of Seagoville, Texas

Agenda Item 1C

Approval of minutes.

BACKGROUND OF ISSUE:

Approval of minutes for meetings held on November 14, 2016.

FINANCIAL IMPACT:

N/A

**CITY COUNCIL
WORK SESSION
NOVEMBER 14, 2016**

The City Council held a work session on Monday, November 14, 2016 at 6:30 p.m. with a quorum present, to wit:

Dennis Childress	Mayor, absent
Jose Hernandez	Mayor Pro Tem
Rick Howard	Councilmember
Harold Magill	Councilmember
Mike Fruin	Councilmember, absent
Jon Epps	Councilmember

The following staff members were also present: City Manager Pat Stallings, Community Development Director Ladis Barr, City Engineer Andy Martin, Water Utilities Director Phil DeChant, Library Director Liz Gant, SEDC Executive Director Kirk Clennan, Police Chief Ray Calverley, City Attorney Alexis Allen and City Secretary Dara Crabtree.

ITEM 1. STAFF UPDATES.

ITEM 2. DISCUSSION OF AGENDA ITEMS.

ITEM 3C. Following a City Council inquiry, Police Chief Calverley clarified the “no parking” location and advised the department would watch and expand the designated “no parking” area if needed in the future.

ITEM 9. Discussion of the pros and cons of the Christmas Tree Lighting event being held on the front lawn of city hall versus C.O. Bruce Central Park included: availability of parking at city hall; space would be available to accommodate the live reindeer and other activities at city hall; city hall provides more of a family atmosphere; and the Christmas tree lighting event was moved to Central Park three (3) years ago.

ITEM 3. PRESENTATIONS.

- a. City Engineer Andy Martin provided a presentation on street maintenance/assessment.
- b. Community Development Director Barr provided an update on recent Planning & Zoning Commission discussions regarding minimum square footage requirements for new single family dwellings.

The work session was adjourned at 7:00 p.m.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

**CITY COUNCIL
REGULAR MEETING
NOVEMBER 14, 2016**

The City Council held a regular meeting on Monday, November 14, 2016 at 7:06 p.m. with a quorum present, to wit:

Dennis Childress	Mayor, absent
Jose Hernandez	Mayor Pro Tem
Rick Howard	Councilmember
Harold Magill	Councilmember
Mike Frum	Councilmember, arrived 7:38 p.m.
Jon Epps	Councilmember

Martin Ashley provided the invocation and Mayor Pro Tem Hernandez led the Pledge of Allegiance.

MAYOR'S REPORT. No report.

[Mayor Pro Tem Hernandez advised that Items 13 and 14 were being moved and will be considered immediately following Item 9.]

The Seagoville Noons Lion Club presented the City Council with a bench for in front of the Library; and Kay Kamm with American Cancer Society presented the City Council with a plaque recognizing Seagoville as a Smoke-Free City.

CITIZENS PUBLIC COMMENT PERIOD (items on the agenda). No one spoke.

CONSENT AGENDA.

Councilmember Epps made a motion, seconded by Councilmember Magill, to approve Consent Agenda Items 1C through 4C. A vote was cast 4 in favor, 0 against.

- ITEM 1C.** Approve minutes for meetings held on October 17, 2016.
- ITEM 2C.** Approve Ordinance No. 33-16 vacating, abandoning and releasing a 0.371 acre tract of right-of-way described and depicted as S. Watson Street in Exhibit "A", which is attached hereto and incorporated herein, to the abutting property owner; providing for the furnishing of a certified copy of this Ordinance for recording in the real property records of Dallas County, Texas, as a Quit Claim Deed; and providing for an effective date.
- ITEM 3C.** Approve Ordinance No. 34-16 amending Chapter 17 of the Code of Ordinances, Division 2. "Parking Regulations on Specific Streets", by adding Subsection 17.04.064 to provide for no parking on the north and south sides of the westbound U.S. Highway 175 service road, beginning at its point of intersection with FM 1389 eastward for a distance of approximately 3,125 feet through the 1800 block of U.S. Highway 175; authorizing the City Manager or Designee to cause the appropriate signage to be erected; providing a savings clause; providing for a severability clause; providing a penalty of fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense; providing for publication; and providing an effective date.
- ITEM 4C.** Approve Resolution No. 60-R-16 declaring certain City property surplus and authorizing the City Manager to sell, trade or dispose of the property in accordance with the processes established in the Code of Ordinances; providing for repeal of any and all resolutions in conflict; providing for a severability clause; and providing for an effective date.
- ITEM 5.** Received presentation/update from Jim Forbes with Pipeline Analysis, LLC regarding the Sanitary Sewer System Capacity, Management, Operation and Maintenance (CMOM) and Stafford Addition Project.
- ITEM 6.** The City Council conducted interviews with three (3) Board and Commission applicants including: Karl Boss, Raymond Covert and Roscio Rueda.
- ITEM 7.** Following a discussion, the City Council made the following appointments:
- Councilmember Epps made a motion, seconded by Councilmember Magill, to appoint Raymond Covert to the Planning & Zoning Commission Place 7 to fill an unexpired term expiring in June 2017. A vote was cast 5 for, 0 against.
- Mayor Pro Tem Hernandez made a motion, seconded by Councilmember Fruin, to appoint Karl Boss to the Board of Adjustment Alternate #1 to fill an unexpired term expiring in June 2017. A vote was cast 5 for, 0 against.

Mayor Pro Tem Hernandez made a motion, seconded by Councilmember Magill, to appoint Roscio Rueda to the Park and Recreation Advisory Board Place #2 to fill an unexpired term expiring in June 2017. A vote was cast 5 for, 0 against.

Mayor Pro Tem Hernandez made a motion, seconded by Councilmember Epps, to appoint Anthony Gutierrez to the Library Advisory Board Place #1 to fill an unexpired term expiring in June 2017. A vote was cast 5 for, 0 against.

Mayor Pro Tem Hernandez made a motion, seconded by Councilmember Epps, to appoint Councilmember Harold Magill to the Seagoville Economic Development Corporation Place #6 to fill an unexpired term expiring in June 2018. A vote was cast 5 for, 0 against.

Councilmember Epps made a motion, seconded by Mayor Pro Tem Hernandez, to appoint Roscio Rueda to the Seagoville Economic Development Corporation Place #7 to fill an unexpired term expiring in June 2017. A vote was cast 5 for, 0 against.

Councilmember Epps made a motion, seconded by Councilmember Magill, to appoint Karl Boss to the Keep Seagoville Beautiful Board Place #2 to fill an unexpired term expiring on June 2017 and to appoint Courtney Chamberlain to the Keep Seagoville Beautiful Board Place #7 to fill an unexpired term expiring on June 2017. A vote was cast 5 for, 0 against.

ITEM 8. Mayor Pro Tem Hernandez made a motion, seconded by Councilmember Howard, to recommend no amendments and/or revisions to the City Council Rules of Procedure. A vote was cast 5 for, 0 against.

ITEM 9. Following a discussion, the consensus of the City Council was to move the Christmas Tree Lighting Ceremony back to the front lawn of City Hall.

ITEM 13. Recessed into Executive Session at 8:01 p.m. in compliance with Texas Government Code Section 551.074, Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to-wit: Municipal Court Judges and City Secretary. Reconvened into open session at 9:06 p.m.

ITEM 14. Councilmember Magille made a motion, seconded by Councilmember Howard, to renew Presiding Judge Cathy Penn and Alternate Associate Judge Kim Lafferty's contracts for a two (2) year term effective November 17, 2016 and directing staff to execute the necessary contracts. A vote was cast 5 for, 0 against.

Councilmember Magill made a motion, seconded by Councilmember Fruin, to accept City Secretary Dara Crabtree's resignation effective December 22, 2016; authorize the City Manager to execute an agreement by and between the City of Seagoville and SGR for both the services of an interim City Secretary and the search for a permanent City Secretary; authorize the City Manager to execute any and all necessary documents; to

provide for an expenditure up to thirty thousand (\$30,000.00) dollars for the search of a permanent replacement; and to provide an effective date. A vote was cast 3 for, 2 against (Howard, Epps).

ITEM 10. COUNCILMEMBER REPORTS.

Harold Magill – complemented staff on the swiftness and efficiency they handled a report of unpermitted work being performed.

Jose Hernandez – commented he had a similar situation with the same positive results.

ITEM 11. CITIZEN COMMENTS. No comments

ITEM 12. FUTURE AGENDA ITEMS.

Rick Howard – would like a discussion item regarding requiring only hands free mobile devices when operating a moving vehicle.

ITEM 15. The meeting adjourned at 9:11 p.m.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

Agenda Item 2

Discuss and consider prohibiting the use of an Electronic Hand-Held Mobile Communication Device while operating a moving vehicle.

BACKGROUND OF ISSUE:

This item was placed on the agenda at the request of Councilmember Howard.

A copy of the Cities of San Antonio and Austin's ordinance is attached for your convenience.

In addition, please find attached proposed H.B 62 (Craddick); H.B 160 (Lucio) and S.B 31 (Zaffirini) filed for consideration 2017 Legislative Session.

FINANCIAL IMPACT:

N/A

AN ORDINANCE

PROHIBITING THE USE OF A HAND-HELD MOBILE COMMUNICATION DEVICE TO ENGAGE IN A CALL, OR SEND, READ OR WRITE A TEXT MESSAGE, OR ENGAGE IN ANY OTHER USE OF THE DEVICE WHILE OPERATING A MOVING MOTOR VEHICLE BY REPEALING SECTION 19-254 AND AMENDING SECTION 19-255, ARTICLE VII OF THE CITY CODE OF SAN ANTONIO, TEXAS; AND PROVIDING FOR A FINE OF UP TO \$200.00 PER VIOLATION.

WHEREAS, the City Council finds that the use of a hand-held mobile communication device to 1) engage in a call, 2) send, read, or write a text message, 3) view pictures or written text, whether transmitted by internet or other electronic means, 4) engage in gaming, or 5) engaging in any other use of the device while operating a moving motor vehicle is a traffic hazard and a danger to the public, which creates a particular danger or probability of danger in the City of San Antonio; and

WHEREAS, the City Council believes that prohibiting the use of hand-held mobile communication devices to engage in any use of a mobile communication device while driving, with certain defenses, would further and protect the public health, safety, and welfare; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Division 1, "Generally," of Article V, "General Rules of Vehicle Operation," of Chapter 19, "Motor Vehicles and Traffic" of the City Code of San Antonio, Texas, Section 19-255, entitled "Regulating the Use of Hand-held Mobile Communication Devices while Driving," is hereby amended to read as follows:

SEC. 19-255 REGULATING THE USE OF HAND-HELD MOBILE COMMUNICATION DEVICES WHILE DRIVING.

(a) In this section:

- (1) **ENGAGING IN A CALL** means talking to, dialing, or listening on a hand-held mobile communication device, but does not include holding a mobile communication device to activate or deactivate the device.
- (2) **HAND-HELD MOBILE COMMUNICATION DEVICE** means a text-messaging device or other electronic, two-way communication device that uses a commercial mobile service, as defined by 47 U.S.C. § 332, that is

designed to receive and transmit voice communication, text message or pictorial communication, or both, whether by internet or other electronic means. The term includes a mobile telephone, and a personal digital assistant (PDA).

- (3) **HANDS-FREE MOBILE TELEPHONE** means a mobile telephone that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a physically disabled person) whether or not the use of either hand (or prosthetic device) is necessary to activate or deactivate the mobile telephone.
 - (4) **PARK OR PARKED** shall mean for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For purposes of this Section, "Parked" does not include or mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway, or traffic congestion patterns then existing.
 - (5) **TEXT MESSAGE** means a two-way communication (whether real-time or asynchronous) in which data (composed in whole or in part of text, numbers, images, or symbols) is sent, entered, or received by a method other than by voice and transmitted through either a short message service (SMS) or a computer network. The term does not include a communication transmitted through a global positioning or navigation system.
- (b) A person commits an offense if the person uses a hand-held mobile communication device to 1) engage in a call, 2) send, read, or write a text message, 3) view pictures or written text whether transmitted by internet or other electronic means, 4) engage in gaming, or 5) engage in any other use of the device while operating a moving motor vehicle.
- (c) This section does not apply to an operator of a motor vehicle using a hand-held mobile communications device:
- (1) while the vehicle is legally parked or is being driven on private property;
 - (2) that is affixed to the vehicle and used as a global positioning or navigation system;
 - (3) that is used with a hands-free mobile communication telephone or other such device;
 - (4) while operating an authorized emergency vehicle in an official capacity; or

- (5) who is licensed by the Federal Communications Commission while operating a radio frequency device other than a hand held mobile communication device.
- (d) It shall be an affirmative defense to prosecution under this section that the person was using a hand-held mobile communication device for the purpose of:
 - (1) executing the person's official duties;
 - (2) reporting illegal activity to a law enforcement agency;
 - (3) communicating with an emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation; or
 - (4) preventing injury to a person or property.
- (e) Only warning citations may be issued for the first 30 days following the effective date of this ordinance so that an educational effort by the City of San Antonio may be conducted to inform the public about the importance and requirements of this new Ordinance. Thereafter, a person convicted of an offense under this section shall be punished by a fine of not more than \$200.
- (f) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record.
- (g) In addition to enforcement by a peace officer of the City of San Antonio, this section may be enforced by a peace officer of another entity, including those employed by school districts, duly authorized to issue traffic citations within the City of San Antonio.

SECTION 2. Chapter 19 of the City Code of San Antonio, Texas, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. Section 19-254 of Article VII, Chapter 19 of the City Code of San Antonio, Texas is hereby repealed.

SECTION 4. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

SECTION 6. The City Clerk of the City of San Antonio is hereby directed to publish notice of this Ordinance as required by Section 17 of the Charter of the City of San Antonio and the laws of the State of Texas.

SECTION 7. This ordinance shall be published in accordance with Section 6 above, and shall take effect on January 1, 2015.

SECTION 8. The Chief of Police shall report to City Council one year from the effective date of this ordinance regarding the number of citations issued under the ordinance and the number of collisions attributed to a violation of the ordinance.

PASSED AND APPROVED this 6th day of November, 2014.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk



Robert F. Greenblum, City Attorney

ORDINANCE NO. 20140828-041

AN ORDINANCE AMENDING SECTION 12-1-34 OF THE CITY CODE TO PROHIBIT THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE, AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 12-1-34 of the City Code is amended to read:

§ 12-1-34 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE.

(A) In this section:

- (1) portable electronic device means a hand-held mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.**
- (2) use means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:**
 - (a) dialing or deactivating a phone call;**
 - (b) speaking in or listening to a conversation;**
 - (c) viewing, taking, or transmitting electronic images;**
 - (d) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;**

- (e) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
 - (f) accessing or viewing an internet website or computer application or;
 - (g) playing a game.
- (3) operating a bicycle means astride a permanent seat attached to the bicycle while the bicycle is in motion.
- (4) authorized emergency personnel means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function.
- (B) [~~A~~] An operator of a motor vehicle [~~driver of a motor vehicle~~] may not use a portable electronic device [~~wireless communication device to view, send, or compose an electronic message or engage other application software~~] while the vehicle is in motion.
- (C) A person may not use a portable electronic device while operating a bicycle.
- (D) [~~B~~] It is an affirmative defense to prosecution of an offense under this section if [~~a wireless communications device is used~~]:
- (1) the motor vehicle or bicycle is at a complete stop;
 - (2) the portable electronic device is used in a hands-free mode of operation and used to engage in telephone communication or to listen to audio transmissions;
 - (3) the portable electronic device is [as] a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle or bicycle;

(4) use of a portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or

(5) use of a portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.

~~[(6)] [if the device is permanently installed inside the vehicle; or]~~

~~[(7)] [solely in a voice-activated or other hands-free mode.]~~

(E) ~~[(C)]~~ This section does not apply to ~~[an operator of an]~~ authorized emergency personnel ~~[vehicle]~~ using a portable electronic ~~[wireless communication]~~ device while acting in an official capacity.

(F) This section does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.

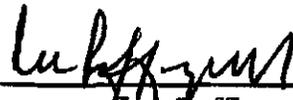
(G) ~~[(D)]~~ To the extent that this section conflicts with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section 545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

PART 2. This ordinance shall take effect January 1, 2015.

PASSED AND APPROVED

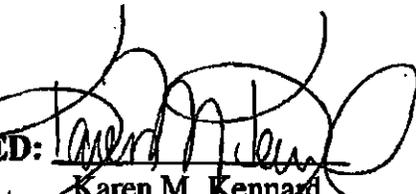
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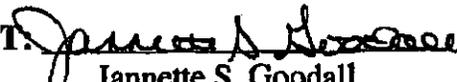
Lee Leffingwell
Mayor

APPROVED:



Karen M. Kennard
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

85R3511 JXC-F

By: Craddick

H.B. No. 62

A BILL TO BE ENTITLED

AN ACT

relating to the use of a wireless communication device while operating a motor vehicle; creating a criminal offense; modifying existing criminal penalties.

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

SECTION 1. This Act may be cited as the Alex Brown Memorial Act.

SECTION 2. Sections 521.161(b) and (c), Transportation Code, are amended to read as follows:

(b) The examination must include:

(1) a test of the applicant's:

(A) vision;

(B) ability to identify and understand highway

signs in English that regulate, warn, or direct traffic;

(C) knowledge of the traffic laws of this state;

[and]

(D) knowledge of motorists' rights and responsibilities in relation to bicyclists; and

(E) knowledge of the effect of using a wireless communication device, or engaging in other actions that may distract a driver, on the safe or effective operation of a motor vehicle;

(2) a demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type that the applicant will be licensed to operate; and

(3) any additional examination the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely.

(c) The department shall give each applicant the option of

H.B. No. 62

taking the parts of the examination under Subsections (b) (1) (B), (C), [~~and~~] (D), and (E) in writing in addition to or instead of through a mechanical, electronic, or other testing method. If the applicant takes that part of the examination in writing in addition to another testing method, the applicant is considered to have passed that part of the examination if the applicant passes either version of the examination. The department shall inform each person taking the examination of the person's rights under this subsection.

SECTION 3. Section 545.424, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (g) to read as follows:

(a) A person under 18 years of age may not operate a motor vehicle while using a wireless communication [~~communications~~] device, except in case of emergency. This subsection does not apply to a person licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless

communication device.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license may not operate a motorcycle or moped while using a wireless communication [~~communications~~] device, except in case of emergency. This subsection does not apply to a person licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(c) Subsection (a-1) [~~This section~~] does not apply to[+
[~~(1)~~] a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit[~~+ or~~

[~~(2)~~ a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device].

(g) An offense under Subsection (a) or (b) is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless

H.B. No. 62

it is shown on the trial of the offense that the defendant has been previously convicted at least one time of an offense under either subsection, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

SECTION 4. Section 545.425(a)(1), Transportation Code, is amended to read as follows:

(1) "Hands-free device" means speakerphone capability, ~~[or]~~ a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a ~~[the]~~ motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function.

SECTION 5. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.4251 to read as follows:

Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION DEVICE

FOR ELECTRONIC MESSAGING; OFFENSE. (a) In this section:

(1) "Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person.

(2) "Wireless communication device" has the meaning assigned by Section 545.425.

(b) An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped.

(c) It is an affirmative defense to prosecution of an offense under this section that the operator used a portable wireless communication device:

(1) in conjunction with a hands-free device, as defined by Section 545.425;

(2) to report illegal activity or summon emergency help;

(3) to read an electronic message that the person reasonably believed concerned an emergency; or

(4) that was permanently or temporarily affixed to the vehicle to relay information in the course of the operator's occupational duties between the operator and:

(A) a dispatcher; or

(B) a digital network or software application service.

(d) Subsection (b) does not apply to:

(1) an operator of an authorized emergency or law enforcement vehicle using a portable wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable wireless communication device.

(e) An offense under this section is a misdemeanor punishable by a fine of at least \$25 and not more than \$99 unless it is shown

H.B. No. 62

on the trial of the offense that the defendant has been previously convicted at least one time of an offense under this section, in which event the offense is punishable by a fine of at least \$100 and not more than \$200.

(f) The Texas Department of Transportation shall post a sign at each point at which an interstate highway or United States highway enters this state that informs an operator that:

(1) the use of a portable wireless communication device for electronic messaging while operating a motor vehicle is prohibited in this state; and

(2) the operator is subject to a fine if the operator uses a portable wireless communication device for electronic messaging while operating a motor vehicle in this state.

(g) A peace officer who stops a motor vehicle for an alleged violation of this section may not take possession of or otherwise inspect a portable wireless communication device in the possession of the operator unless authorized by the Code of Criminal

Procedure, the Penal Code, or other law.

SECTION 6. Section 708.052, Transportation Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Notwithstanding Subsection (b), the department may not assign points to a person's license if the offense of which the person was convicted is the offense of using a portable wireless communication device for electronic messaging as described by Section 545.4251.

SECTION 7. The changes in law made by this Act to Chapter 545, Transportation Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 8. This Act takes effect September 1, 2017.

By: Lucio III

H.B. No. 160

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the use of a wireless communication device while
3 operating a motor vehicle; creating a criminal offense; modifying
4 existing criminal penalties.

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

6 SECTION 1. This Act may be cited as the Alex Brown Memorial
7 Act.

8 SECTION 2. Sections 521.161(b) and (c), Transportation
9 Code, are amended to read as follows:

10 (b) The examination must include:

11 (1) a test of the applicant's:

12 (A) vision;

13 (B) ability to identify and understand highway
14 signs in English that regulate, warn, or direct traffic;

15 (C) knowledge of the traffic laws of this state;

16 [and]

17 (D) knowledge of motorists' rights and
18 responsibilities in relation to bicyclists; and

19 (E) knowledge of the effect of using a wireless
20 communication device, or engaging in other actions that may
21 distract a driver, on the safe or effective operation of a motor
22 vehicle;

23 (2) a demonstration of the applicant's ability to
24 exercise ordinary and reasonable control in the operation of a

1 motor vehicle of the type that the applicant will be licensed to
2 operate; and

3 (3) any additional examination the department finds
4 necessary to determine the applicant's fitness to operate a motor
5 vehicle safely.

6 (c) The department shall give each applicant the option of
7 taking the parts of the examination under Subsections (b)(1)(B),
8 (C), ~~[and]~~ (D), and (E) in writing in addition to or instead of
9 through a mechanical, electronic, or other testing method. If the
10 applicant takes that part of the examination in writing in addition
11 to another testing method, the applicant is considered to have
12 passed that part of the examination if the applicant passes either
13 version of the examination. The department shall inform each
14 person taking the examination of the person's rights under this
15 subsection.

16 SECTION 3. Section 545.424, Transportation Code, is amended
17 by amending Subsections (a), (b), and (c) and adding Subsection (g)
18 to read as follows:

19 (a) A person under 18 years of age may not operate a motor
20 vehicle while using a wireless communication ~~[communications]~~
21 device, except in case of emergency. This subsection does not apply
22 to a person licensed by the Federal Communications Commission while
23 operating a radio frequency device other than a wireless
24 communication device.

25 (b) A person under 17 years of age who holds a restricted
26 motorcycle license or moped license may not operate a motorcycle or
27 moped while using a wireless communication ~~[communications]~~

1 device, except in case of emergency. This subsection does not apply
2 to a person licensed by the Federal Communications Commission while
3 operating a radio frequency device other than a wireless
4 communication device.

5 (c) Subsection (a-1) [This section] does not apply to [+
6 ~~(1)~~] a person operating a motor vehicle while
7 accompanied in the manner required by Section 521.222(d)(2) for the
8 holder of an instruction permit [+ or
9 ~~(2) a person licensed by the Federal Communications~~
10 ~~Commission to operate a wireless communication device or a radio~~
11 ~~frequency device].~~

12 (g) An offense under Subsection (a) or (b) is a misdemeanor
13 punishable by a fine of at least \$25 and not more than \$99 unless it
14 is shown on the trial of the offense that the defendant has been
15 previously convicted at least one time of an offense under either
16 subsection, in which event the offense is punishable by a fine of at
17 least \$100 and not more than \$200.

18 SECTION 4. Section 545.425(a)(1), Transportation Code, is
19 amended to read as follows:

20 (1) "Hands-free device" means speakerphone
21 capability, ~~[or]~~ a telephone attachment, or another function or
22 other piece of equipment, regardless of whether permanently
23 installed in or on a wireless communication device or in a [the]
24 motor vehicle, that allows use of the wireless communication device
25 without use of either of the operator's hands, except to activate or
26 deactivate a function of the wireless communication device or
27 hands-free device. The term includes voice-operated technology and

1 a push-to-talk function.

2 SECTION 5. Subchapter I, Chapter 545, Transportation Code,
3 is amended by adding Section 545.4251 to read as follows:

4 Sec. 545.4251. USE OF PORTABLE WIRELESS COMMUNICATION
5 DEVICE FOR ELECTRONIC MESSAGING; OFFENSE. (a) In this section:

6 (1) "Electronic message" means data that is read from
7 or entered into a wireless communication device for the purpose of
8 communicating with another person.

9 (2) "Wireless communication device" has the meaning
10 assigned by Section 545.425.

11 (b) An operator commits an offense if the operator uses a
12 portable wireless communication device to read, write, or send an
13 electronic message while operating a motor vehicle unless the
14 vehicle is stopped.

15 (c) It is an affirmative defense to prosecution of an
16 offense under this section that the operator used a portable
17 wireless communication device:

18 (1) in conjunction with a hands-free device, as
19 defined by Section 545.425;

20 (2) to report illegal activity or summon emergency
21 help;

22 (3) to read an electronic message that the person
23 reasonably believed concerned an emergency; or

24 (4) that was permanently or temporarily affixed to the
25 vehicle to relay information in the course of the operator's
26 occupational duties between the operator and:

27 (A) a dispatcher; or

1 (B) a digital network or software application
2 service.

3 (d) Subsection (b) does not apply to:

4 (1) an operator of an authorized emergency or law
5 enforcement vehicle using a portable wireless communication device
6 while acting in an official capacity; or

7 (2) an operator who is licensed by the Federal
8 Communications Commission while operating a radio frequency device
9 other than a portable wireless communication device.

10 (e) An offense under this section is a misdemeanor
11 punishable by a fine of at least \$25 and not more than \$99 unless it
12 is shown on the trial of the offense that the defendant has been
13 previously convicted at least one time of an offense under this
14 section, in which event the offense is punishable by a fine of at
15 least \$100 and not more than \$200.

16 (f) The Texas Department of Transportation shall post a sign
17 at each point at which an interstate highway or United States
18 highway enters this state that informs an operator that:

19 (1) the use of a portable wireless communication
20 device for electronic messaging while operating a motor vehicle is
21 prohibited in this state; and

22 (2) the operator is subject to a fine if the operator
23 uses a portable wireless communication device for electronic
24 messaging while operating a motor vehicle in this state.

25 (g) A peace officer who stops a motor vehicle for an alleged
26 violation of this section may not take possession of or otherwise
27 inspect a portable wireless communication device in the possession

1 of the operator unless authorized by the Code of Criminal
2 Procedure, the Penal Code, or other law.

3 SECTION 6. Section 708.052, Transportation Code, is amended
4 by adding Subsection (e-1) to read as follows:

5 (e-1) Notwithstanding Subsection (b), the department may
6 not assign points to a person's license if the offense of which the
7 person was convicted is the offense of using a portable wireless
8 communication device for electronic messaging as described by
9 Section 545.4251.

10 SECTION 7. The changes in law made by this Act to Chapter
11 545, Transportation Code, apply only to an offense committed on or
12 after the effective date of this Act. An offense committed before
13 the effective date of this Act is governed by the law in effect on
14 the date the offense was committed, and the former law is continued
15 in effect for that purpose. For purposes of this section, an
16 offense was committed before the effective date of this Act if any
17 element of the offense occurred before that date.

18 SECTION 8. This Act takes effect September 1, 2017.

By: Zaffirini

S.B. No. 31

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the use of a wireless communication device while
3 operating a motor vehicle; creating a criminal offense; modifying
4 existing criminal penalties.

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14 signs in English that regulate, warn, or direct traffic;

15 (C) knowledge of the traffic laws of this state;

16 [~~and~~]

17 (D) knowledge of motorists' rights and
18 responsibilities in relation to bicyclists; and

19 (E) knowledge of the effect of using a wireless
20 communication device, or engaging in other actions that may
21 distract a driver, on the safe or effective operation of a motor
22 vehicle;

23 (2) a demonstration of the applicant's ability to
24 exercise ordinary and reasonable control in the operation of a

1 motor vehicle of the type that the applicant will be licensed to
2 operate; and

3 (3) any additional examination the department finds
4 necessary to determine the applicant's fitness to operate a motor
5 vehicle safely.

6 (c) The department shall give each applicant the option of
7 taking the parts of the examination under Subsections (b)(1)(B),
8 (C), ~~[and] (D)~~, and (E) in writing in addition to or instead of
9 through a mechanical, electronic, or other testing method. If the
10 applicant takes that part of the examination in writing in addition
11 to another testing method, the applicant is considered to have
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14 person taking the examination of the person's rights under this
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22 to a person licensed by the Federal Communications Commission while
23 operating a radio frequency device other than a wireless
24 communication device.

25 (b) A person under 17 years of age who holds a restricted
26 motorcycle license or moped license may not operate a motorcycle or
27 moped while using a wireless communication ~~[communications]~~

1 device, except in case of emergency. This subsection does not apply
2 to a person licensed by the Federal Communications Commission while
3 operating a radio frequency device other than a wireless
4 communication device.

5 (c) Subsection (a-1) [~~This section~~] does not apply to[+
6 [(1)] a person operating a motor vehicle while
7 accompanied in the manner required by Section 521.222(d)(2) for the
8 holder of an instruction permit[~~+~~ or
9 [(2)] ~~a person licensed by the Federal Communications~~
10 ~~Commission to operate a wireless communication device or a radio~~
11 ~~frequency device].~~

12 (g) An offense under Subsection (a) or (b) is a misdemeanor
13 punishable by a fine of at least \$25 and not more than \$99 unless it
14 is shown on the trial of the offense that the defendant has been
15 previously convicted at least one time of an offense under either
16 subsection, in which event the offense is punishable by a fine of at
17 least \$100 and not more than \$200.

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21 capability, [~~or~~] a telephone attachment, or another function or
22 other piece of equipment, regardless of whether permanently
23 installed in or on a wireless communication device or in a [~~the~~]
24 motor vehicle, that allows use of the wireless communication device
25 without use of either of the operator's hands, except to activate or
26 deactivate a function of the wireless communication device or
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21 help;

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23 reasonably believed concerned an emergency; or

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25 vehicle to relay information in the course of the operator's
26 occupational duties between the operator and:

27 (A) a dispatcher; or

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2 service.

3 (d) Subsection (b) does not apply to:

4 (1) an operator of an authorized emergency or law
5 enforcement vehicle using a portable wireless communication device
6 while acting in an official capacity; or

7 (2) an operator who is licensed by the Federal
8 Communications Commission while operating a radio frequency device
9 other than a portable wireless communication device.

10 (e) An offense under this section is a misdemeanor
11 punishable by a fine of at least \$25 and not more than \$99 unless it
12 is shown on the trial of the offense that the defendant has been
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15 least \$100 and not more than \$200.

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22 (2) the operator is subject to a fine if the operator
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24 messaging while operating a motor vehicle in this state.

25 (g) A peace officer who stops a motor vehicle for an alleged
26 violation of this section may not take possession of or otherwise
27 inspect a portable wireless communication device in the possession

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8 communication device for electronic messaging as described by
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11 545, Transportation Code, apply only to an offense committed on or
12 after the effective date of this Act. An offense committed before
13 the effective date of this Act is governed by the law in effect on
14 the date the offense was committed, and the former law is continued
15 in effect for that purpose. For purposes of this section, an
16 offense was committed before the effective date of this Act if any
17 element of the offense occurred before that date.

18 SECTION 8. This Act takes effect September 1, 2017.

Agenda Item 3

Receive Councilmember Reports.

BACKGROUND OF ISSUE:

Items of community interest regarding which no action will be taken, as authorized by Section 551.0415 of the Government Code.

FINANCIAL IMPACT:

N/A

Agenda Item 4

Receive Citizen Comments.

BACKGROUND OF ISSUE:

Citizens may speak 6 minutes each on any matter, other than personnel matters, or matters under litigation.

FINANCIAL IMPACT:

N/A

Agenda Item 5

Receive Future Agenda Items.

BACKGROUND OF ISSUE:

If a Councilmember should wish for an item to be placed on a future agenda it may be requested at this time. Please keep in mind, there **CANNOT** be a discussion amongst the City Council regarding this item because it is not listed on the posted agenda.

FINANCIAL IMPACT:

N/A

Agenda Item 6 and 7

ITEM 6.

Recess into Executive Session in compliance with Texas Government Code Section 551.074, Personnel, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee to wit: Interim City Secretary.

ITEM 7.

Discuss any item and/or take any action necessary as a result of the Executive Session.

Agenda Item 8

Adjourn.

BACKGROUND OF ISSUE:

At this time, the Mayor may adjourn the meeting if there is no further business to conduct.

FINANCIAL IMPACT:

N/A