

TY CLEVENGER

Attorney at Law
1095 Meadow Hill Drive
Lavon, Texas 75166

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

July 29, 2015

The Hon. Coty Siegert, District Attorney
Robertson County
Franklin, Texas 77856

Major Jeffrey Collins, Commander
Texas Ranger Company A
12230 West Road
Houston, Texas 77065

Robertson County Grand Jury
c/o Robertson County District Clerk
P. O. Box 250
Franklin, Texas 77856

Re: City of Hearne

Mr. Siegert, Major Collins, and Members of the Grand Jury:

I write to request a criminal investigation of the finances of the City of Hearne. A resident of Hearne, Rodrick Jackson, provided me with copies of financial records that he obtained from the city via the Texas Public Information Act. According to those records, City Manger Pee Wee Drake used a city-issued credit card to buy hundreds of dollars worth of football tickets, while other records show thousands of dollars worth of city funds were spent on Christmas gifts, including several flat-screen televisions and a tablet computer. I am also informed that city employees purchased supplies for Mayor Ruben Gomez's home using city funds.

I have enclosed a copy of a 2013 credit card statement from First Star Bank (Exhibit 1), and it indicates that Mr. Drake's card was used on September 18, 2013 for a \$212.27 purchase from Vivid Seats. That exhibit also includes a separate check request indicating that the money was used to purchase "Football Tickets for Werlinger." Judging from the other entries on that check request, it appears that city funds were used to purchase football tickets for Michael Werlinger, who was at that time a member of the Hearne City Council.

A December 30, 2012 check request reflects a \$424.35 purchase for "Vivid Seats / Mike Werlinger." That same request and a related credit card billing statement indicate that Mr. Drake's card was used for a \$400.00 purchase from Ama's, the restaurant owned by the Mayor's sister, on December 27, 2012. Other records show that

\$1,012.58 was spent at Sam's Wholesale Club on November 29, 2012 for a Christmas Party, including \$388.00 each for two flat-screen televisions. Two more flat-screen televisions were purchased on October 3, 2013 for \$658.00, while Mr. Drake's credit card records reflect a November 6, 2013 online purchase of "WAL-MART-TABLET AND NINJA FOR XMAS PARTY" from Walmart.com for \$237.47.

I will gladly provide all of the financial records upon request, including the records that allegedly reflect purchases for Mayor Gomez's home. I will also provide the name of a witness to the alleged purchases for Mayor Gomez's home, but I do not want to put his or her name in writing for fear of retaliation against him or her.

I have personally informed all city council members about the illegal purchases, but it seems that all of them except Shirley Harris are trying to cover up the misconduct. As Mr. Siegert already knows, I previously represented council members Hazel Embra, Joyce Rattler, and LaShunda White, all of whom ran as reformers against the corruption at city hall, but it now appears that they have been bought off by Mayor Gomez and his allies. If the grand jury wishes, I will testify about that, but I do not wish to elaborate in writing, and I obviously cannot discuss anything pertaining to my previous relationship as their attorney. Nonetheless, I strongly recommend that the grand jury invite Ms. Embra, Ms. Rattler, and Ms. White to testify about what they have received or been promised since May 9, 2015.

In all likelihood, the expenditures described above are just the tip of the iceberg at city hall. I have long been aware of anecdotal reports of tampering with utility bills to reward friends and punish political enemies, so last week I drafted a public information request for Mr. Jackson about the city's purchase and sales of utility services (Exhibit 2). He personally delivered that request to city hall on Tuesday, July 21, 2015, and later that day his electricity service was disconnected. Despite repeated requests, his service was not reconnected until he threatened to call a lawyer. I believe the disconnection of his utility services was an act of official oppression as that term is defined in Section 39.03 of the Texas Penal Code.

I also request an investigation of former Hearne City Attorney Bryan F. "Rusty" Russ, Jr. and his son, Bryan F. "Trey" Russ, III. On October 17, 2014, Rusty and Trey filed claims in district court, purportedly on behalf of the City of Hearne. The city council had never authorized them to file the claims, and half the city council at that time was adamantly opposed to the claims. Rusty and Trey later billed the city for their unauthorized services.

According to the Texas statute governing barratry, "[a] person commits an offense if, with intent to obtain an economic benefit the person... knowingly institutes a suit or claim that the person has not been authorized to pursue..." Texas Penal Code § 38.12(a) (1). Violations are a third-degree felony. Rusty and Trey knew that their actions were illegal because I had already reported them to the state bar for similar issues in 2013, and I had explained in writing that Rusty had to have authorization from the city council before purporting to represent the city in court. Yet they violated the law anyway.

Some of you are probably already aware of my website, BoogerCountyMafia.com, where I described some of the fraud and corruption involving Rusty, his law partner (James McCullough), and District Judge Robert M. Stem. I have uploaded transcripts, court documents, and settlement agreements to that site, and I encourage you to read them if you have not done so already. Some of the violations described on that site could still be prosecuted under Chapter 71 of the Penal Code, which pertains to organized crime.

I mention that site in connection with the barratry statute because I think it makes sense to bring barratry charges against Rusty and Trey as a means of unraveling the larger racket involving Rusty, Mr. McCullough, and Judge Stem. If Rusty and Trey are both indicted for barratry, Rusty will probably give up everything he knows in order to save his son. In other words, if a prosecutor offered to go easy on Trey in exchange for Rusty's testimony against Mr. McCullough, Judge Stem, Mayor Gomez, Mr. Drake, former DA John Paschall, et al., I think Rusty would take the deal.

Please contact me if you want additional information. Thank you in advance for your consideration of these matters.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: Judge Robert M. Stem
82nd District Court of Robertson County

Exhibit 1



PEE WEE DRAKE

Account Number: XXXX XXXX XXXX 0072

Billing Questions: 800-367-7576

Website: www.cardaccount.net

Send Billing Inquiries To: Card Services Center, PO Box 569120, Dallas, TX 75356

FIRST STAR BANK, S.S.B. Credit Card Account Statement
September 7, 2013 to October 8, 2013

SUMMARY OF ACCOUNT ACTIVITY

Previous Balance	\$314.99
- Payments	\$314.99
- Other Credits	\$0.00
+ Purchases	\$1,356.44
+ Cash Advances	\$0.00
+ Fees Charged	\$0.00
+ Interest Charged	\$0.00
= New Balance	\$1,356.44

PAYMENT INFORMATION

New Balance:	\$1,356.44
Minimum Payment Due:	\$40.70
Payment Due Date:	November 2, 2013

Account Number XXXX XXXX XXXX 0072
 Credit Limit \$5,000.00
 Available Credit \$3,643.00
 Statement Closing Date October 8, 2013
 Days in Billing Cycle 32

Please see reverse side of page 1 for important information.

5762 0001 BWH 001 7 4 131008 0 PAGE 1 of 2 1-5-5025-4202-VB5-02AB5762-5848

FIRST STAR BANK, S.S.B.
1550 N BROWN RD 150
LAWRENCEVILLE GA 30043



Account Number:	XXXX-XXXX-XXXX 0072
New Balance:	\$1,356.44
Minimum Payment Due:	\$40.70
Payment Due Date:	November 2, 2013

Please use enclosed envelope to remit payment.

Amount Enclosed: \$



Indicate name or address change on reverse side and check here.

Make Check Payable to:

CARD SERVICE CENTER
PO BOX 569100
DALLAS TEXAS 75356-9100

PEE WEE DRAKE
CITY OF HEARNE
209 CEDAR ST
HEARNE TX 77859-2599

5848



470712420270007200004070001356443



PEE WEE DRAKE
 Account Number: XXXX XXXX XXXX 0072

TRANSACTIONS An amount followed by a minus sign (-) is a credit unless otherwise indicated.

Tran Date	Post Date	Reference Number	Transaction Description	Amount
10/07	10/07	74707128T01MKYYQJ	PAYMENT - THANK YOU	\$314.99-
09/13	08/15	24013398100S58YFZ	DIXIE CAFE Astin TX	\$116.30
09/17	08/19	244318685WGNV9T66	MI CASITA HEARNE TX	\$71.60
09/18	09/19	2424651855SR8P50G	VIVID SEATS 866-848-8489 IL	\$212.27
09/18	09/19	244310686603VJ52T	PIZZA HUT 8577 HEARNE TX	\$49.68
09/23	09/24	24906048A15E1S7YE	HILTON HOTEL ADV DEP AUSTIN TX	\$239.20 ✓
09/23	09/24	24906048A15E1S7YN	HILTON HOTEL ADV DEP AUSTIN TX	\$239.20 ✓
09/23	09/24	24906048A15E1S7Y6	HILTON HOTEL ADV DEP AUSTIN TX	\$239.20 ✓
09/30	10/01	24717058H4PHZ7175	TOMS TIRE AND SERVICE CTR254-5822548 TX	\$188.89 ✓

INTEREST CHARGE CALCULATION

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Days in Billing Cycle	Interest Charge
Purchases	14.24% (v)	\$0.00	32	\$0.00
Cash Advances	14.24% (v)	\$0.00	32	\$0.00

(v) - variable

To avoid additional interest charges, pay your New Balance in full on or before the Payment Due Date.

Thank you for the opportunity to serve your credit card needs. Should your future plans include travel, please contact us at 1-800-367-7576.

Exciting news! Go online today and check out the all new enhancements to the Card Service Center website. E-statements, additional payment options, and more are waiting for you. Visit us today at www.cardaccount.net to enroll your credit card account(s) on the newly enhanced website.

Please see reverse side of page 1 for important information.

1-2

5848

City of Hearne

CHECK REQUEST



Vendor Number 1696 Invoice Number 201310248584
 Vendor Name Card Service Center Invoice Date 10/08/2013
 Address (L1) _____ Amount of Invoice \$ 588.72
 Address (L2) _____
 City, State, Zip _____ Purchase Order # _____

Reference: _____

Purpose: Acct # Ending with 0072

Coding				
Fund	Department	Account		Amount
200	544	4832	Meals for WWTP Workers	116.30
200	544	4832	Meals for WWTP Workers	71.60
100	511	4832	Football Tickets for Werlinger	212.27
200	544	4832	Meals for WWTP Workers	49.68
100	512	4832	Hotel - TML - A Florida	239.20
100	511	4832	Hotel - TML - M Werlinger	239.20
200	552	4832	Hotel - TML - T Thomas	239.20
200	540	2070	Tire - Water Dept Pickup	188.99

Total 1,356.44

Funds Reimbursable ? Yes / No

By Whom ? _____

Comments: _____

	Budget	Balance
Category		
Line No.		
Category		
Line No.		
Category		

Approvals
REQUESTED BY

Dept Supervisor
Finance *[Signature]*
Management

Exhibit 2

July 20, 2015

Mr. Pee Wee Drake, City Manager
City of Hearne
Hearne, Texas 77859

Re: Public Information Request

Mr. Drake:

Pursuant to the Texas Public Information Act, I request the opportunity to view the following documents, records, and information:

1. All utility billing and payment records from January 1, 2013 to the present for the following individuals: Mark Flowers, Alex Gomez, Alicia Gomez, Eric Gomez, Joe Gomez, Mario Gomez, Reuben Gomez, Kathy Townley Gomez, Maugro Gomez, Matthew Gomez, Curtis Hover, James McCullough, Maxine Vaughn, William Brunette, Anthony Williams, Lollie Adams, Donald Adams, Fondell Adams, Delores Bryant, Jean White Burell, Kenneth Roy Byrd, Steven Marc Jones, Joyce Richardson, Waymon Richardson, Joe Rocha, Emmett Aguirre, Bryan Russ, Betty Russ, Joe Scarpinato, James Shear, Claude Sims, Benuvard Spiller, Frank Vaca, Marc Catalina, James Crawford, Latonya Lewis Darnell, Ray Anthony Edwards, Hazel Embra, Donald Embra, Michael Werlinger, Judy Werlinger, Joyce Rattler, Lashunda White, Sylvia Montelongo, Pee Wee Drake, and Cecil Paul Lockhart.
2. All utility billing and payment records from January 1, 2013 to the present for the following businesses: Ama's Mexican Restaurant; El Alamo Cafe; Dixie Cafe; McDonald's (the older site on the south side of town); Palmos, Russ, McCullough, and Russ, LLP; and Hearne Chiropractic Clinic.
3. All billing and payment records reflecting the City of Hearne's wholesale purchase of electricity between January 1, 2013 and the present. This request includes, but is not limited to, documents reflecting the price per unit of wholesale electricity purchased during that time period.
4. For the period from January 1, 2013 until the present, documents and records reflecting the average retail price per unit of electricity sold to the City of Hearne's utility customers.
5. For the period from January 1, 2013 until the present, all documents and records reflecting adjustments to the electricity bills of City of Hearne utility customers. This request includes, but is not limited to, the following:

(a) Alterations to the automated meter readings of utility customers, e.g., to increase or decrease the recorded amount of electricity consumed by a customer.

(b) Alterations to the payment balances of utility customers, e.g., to increase or decrease the amount of money owed to the City of Hearne for utility services.

6. All letters, emails, resumes, proposed contracts, or other documents since September 1, 2014 submitted by anyone asking to be considered for appointment as (1) city manager or interim city manager, or (2) city attorney or interim city attorney.
7. All purchases made by or for Mayor Ruben Gomez since January 1, 2013 using city funds, regardless of the name appearing on the particular account or credit card.

The terms “records” and “documents” should be construed broadly to include all stored information, regardless of format (*e.g.*, paper or electronic). If possible, I would like to obtain electronic copies of the foregoing records on a CD or DVD. If there is a charge for producing the records, I wish to view the records first before deciding which ones to copy.

Thank you in advance for your assistance.

Sincerely,