

Cause No. 94315

AMANDA BODIFORD and DARREN EVANS,	)	IN THE DISTRICT COURT
	)	
Petitioners,	)	<u>196th</u> JUDICIAL DISTRICT
	)	
vs.	)	OF HUNT COUNTY, TEXAS
	)	
MARK BEATTE, CITY OF HAWK COVE,	)	
TEXAS, CITY COUNCIL PLACE 4; REBECCA	)	
BERNARDI, CITY OF HAWK COVE, TEXAS,	)	
CITY COUNCIL PLACE 1; and DELORES	)	
MARLOW SPENCE, CITY OF HAWK COVE,	)	
TEXAS, CITY COUNCIL MAYOR,	)	
	)	
Respondents.	)	
	)	

PETITIONERS' ORIGINAL, SWORN, PETITION FOR REMOVAL

TO THE HONORABLE JUDGE OF THIS DISTRICT COURT:

AMANDA BODIFORD and DARREN EVANS, Petitioners in this cause of action (collectively, "Petitioners"), state and swear that:

Petitioners pray that this Honorable Court remove from the governing body of the City Council ("Council") of The City of Hawk Cove, Texas ("City"): Respondent Mark Beatte, Council Place 4; Respondent Rebecca Bernardi, Council Place 1; and Respondent Delores Marlow Spence, Council Mayor. Respondents are individually referred to herein, respectively, as: "Respondent Beatte"; "Respondent Bernardi"; and "Respondent Spence." Collectively, Respondents are referred to herein as "Respondents."

Petitioners bring this Petition pursuant to Local Government Code (for brevity, hereinafter "LGC"), Chapter 21, Subchapter B. Additional applicable statutes are in Endnote references, shown in bolded superscript, e.g., "ⁱ".

Petitioners base this Petition on Respondents' incompetency, defined in LGC § 21.022(2)(A), § 21.022(2)(B) ⁱ, and § 21.025(1) ⁱⁱ; and Respondents' official misconduct, intentional and corrupt acts, defined in LGC § 21.022(4). Incompetency, official misconduct, and intentional and corrupt acts are each grounds for each Respondent's removal under LGC § 21.025(2).

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members of, or in concert as a quorum (“walking quorum”) of, the Council, in violation of Gov’t Code § 551.001, § 551.143^{v/}, § 551.144^{vi/}, § 551.145^{vii/} and § 551.050^{viii/}.

9. As is more particularly set forth in this Petition, Respondents, each and all, throughout their respective terms and Council positions, have demonstrated gross ignorance of their official duties and gross carelessness in the discharge of their official duties under LGC § 21.025(1), as well as official misconduct under § 21.025(2). In addition, Respondents, each and all, have knowingly and intentionally, continuously, committed multiples of the following prosecutable offenses, more fully alleged in Section B and Section C of this Article IV, for which each conviction of a felony or Class A misdemeanor offense would be cause for removal:

- a. Abuse of official capacity, a first degree felony, under Penal Code § 39.02(a)(1), § 39.02(a)(2) and § 39.02(c)(7)^{ix/}, and automatic removal under LGC § 180.010^{x/};
- b. Conspiracy, or the attempt, to commit abuse of official capacity, a second degree felony under Penal Code § 15.01(a) and § 15.01(c)^{xi/}, and automatic removal under LGC § 180.010;
- c. Misuse of official information, a third degree felony under Penal Code § 39.06(b) and § 39.06(e)^{xii/}, and automatic removal under LGC § 180.010;
- d. Conspiracy, or the attempt, to commit misuse of official information, a second degree felony under Penal Code § 15.01(a) and § 15.01(c), and automatic removal under LGC § 180.010;
- e. Tampering with governmental records, a state jail felony under Penal Code § 37.10(a)(2), § 37.10(a)(5) and § 37.10(c)(1)^{xiii/}, and automatic removal under LGC § 180.010;
- f. Conspiracy, or the attempt, to commit tampering with governmental records, a Class A misdemeanor under Penal Code § 15.01(a) and § 15.01(c), and automatic removal under LGC § 180.010;
- g. Official oppression, a Class A misdemeanor under Penal Code § 39.03(a)(1) and § 39.03(a)(2)^{xiv/};
- h. Violations of the Texas Open Meetings Act (“TOMA”), more particularly: Gov’t Code § 551.143, punishable by fine between \$100 and \$550, county jail between one and six months, or both; § 551.144, punishable by fine between \$100 and \$550, county jail between one and six months, or both; § 551.145, a Class C misdemeanor; and § 551.050; and
- i. Harassment of City’s public servants under Penal Code § 42.07^{xv/}, a Class A misdemeanor pursuant to § 12.501(b) and § 12.501(c)^{xvi/}, punishable by fine up to \$4,000 and jail time up to 1 year.

10. Petitioners incorporate as though fully set forth herein, the sworn affidavits and allegations of the following witnesses: Amanda Bodiford (Exhibit “A”); Darren Evans (Exhibit

“B”); and Tiffany Taylor (Exhibit “C”), all attached hereto and incorporated herein as if fully set forth for all purposes of this action.

B. ABUSE OF OFFICIAL CAPACITY; MISUSE OF OFFICIAL INFORMATION; TAMPERING WITH GOVERNMENTAL RECORDS; AND CONSPIRACY AND ATTEMPT TO COMMIT; – WITH INTENT TO HARM OR DEFRAUD
First, Second, Third, and State Jail, Felonies; Class A Misdemeanors; and on Conviction, Subject to Automatic Removal

1. Allegations in Common

11. In each of the incidents set forth below in this Section B, Petitioners reallege all of the allegations of Section A above as though fully set forth, and incorporate the following:

- a. Respondents, each and together, acted knowingly, intentionally and falsely in conspiring to, and making, presenting and using the documents identified below, that Respondents knew were not: created, adopted or authorized by City or the Council (collectively referred to as “genuine”);
- b. Respondents knew that those to whom Respondents made, presented and used the documents (the “recipient/s”) had no knowledge that the documents were not genuine;
- c. Respondents made, presented and used the documents with **intent** that the recipient/s take them as genuine governmental records;
- d. Respondents’ actions described herein demonstrate Respondents’ misuse of official information and personnel, and tampering with governmental records;
- e. Respondents’ actions described herein demonstrate Respondents’ **intent to defraud the recipients**; and
- f. Respondents’ actions described herein demonstrate Respondents’ **intent to harm City**, including in its vital, core and key services and personnel; and, where applicable, **intent to harm City’s Administrator, Police Chief, Deputy Police Chief, Chief Building Official and/or Attorney, and/or City’s citizens, residents, voters, contractors and vendors**;
- g. Under Penal Code § 39.02(7), the fair market value to City of replacing the government services and personnel of the persons whom and positions which Respondents have misused, exceeds Three Hundred Thousand Dollars;
- h. Respondents, each and together, have committed: abuse of official capacity, first degree felonies, under Penal Code § 39.02(a)(1), § 39.02(a)(2) and § 39.02(7); conspiracy or the attempt to commit abuse of official capacity, second degree felonies under Penal Code 15.01(a) and § 15.01(c); misuse of official information, third degree felonies under Penal Code § 39.06(b) § 39.06(e); tampering with governmental records, state jail felonies under Penal Code § 37.10(a)(2), § 37.10(a)(5) and § 37.10(c)(1); and harassment of public servants, a Class A misdemeanor; and doing so, are subject to automatic removal for their felony offenses under LGC § 180.010; and

- i. In each of the communications below, the referenced communicating Respondent made, presented and used the communication representing that the communicating Respondent had Council authority to do so, yet that Respondent did not have Council authority to do so.

2. **Attempts to Remove Officer/s without Council Authorization: Grievance and Appeal**

12. Respondents, each, and all in conspiracy and completed actions, filed Respondents' **November 21, 2023** grievance ("Respondents' Grievance") against City's Attorney with the recipient, The Office of the Chief Disciplinary Counsel for the State Bar of Texas ("Chief Disciplinary Counsel"), number 202308125. The 119 pages of documents made, presented and used by Respondents as Respondents' Grievance foundation contained documents that were not genuine. The Chief Disciplinary Counsel dismissed Respondents' Grievance on December 28, 2023. Nonetheless, Respondents, each and all, made, presented and used the documents as genuine, with **intent to defraud the Chief Disciplinary Counsel**, thereby misusing official information, **to induce the Chief Disciplinary Counsel** to act on Respondents' Grievance by sanctioning, suspending or revoking City Attorney's State Bar of Texas license to practice.

13. The actions of each and all of the Respondents demonstrated **intent to harm City** including in its financial viability, infrastructure, personnel, contracts, reputation and leadership, by depriving City of the services of its City Attorney. In addition, the actions of each and all Respondents demonstrated **intent to harm City Attorney** by initiating processes to, and attempting to, remove City Attorney, thereby detrimentally affecting City Attorney's professional and personal livelihood, reputation and emotional well-being.

14. Although the Chief Disciplinary Counsel dismissed Respondents' Grievance on December 28, 2023, on **January 24, 2024**, Respondents, each, and all in conspiracy and completed actions, nonetheless appealed the dismissal to recipient State Bar of Texas Board of Disciplinary Appeals (the "BoDA") against City's Attorney ("Respondents' Appeal"), number 68848. In doing so, Respondents once again, as another violation, made, presented and used Respondents' Grievance documents, containing documents that were not genuine as Respondents' Appeal foundation. The BoDA dismissed Respondents' Appeal on March 21, 2024.

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- h. That Petitioners, and each of them, have and recover from Respondents jointly and severally such other and further relief, including all other just and equitable claims, as is allowed by law, and as the Court deems just and proper.

Respectfully submitted this 18th day of November, 2024.

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By /s/ Ronna L. Hodges
Ronna L. Hodges, SBN 24034484
Attorney for Petitioners
Amanda Bodiford and Darren Evans

SWORN VERIFICATION/S

Amanda Bodiford

Amanda Bodiford, Affiant

STATE OF TEXAS)
) ss:
COUNTY OF HUNT)

On this, the 17 day of November, 2024, before me personally appeared Amanda Bodiford, proven to me to be the person who subscribed the above and foregoing document, and, being first duly sworn upon her oath, acknowledged that she has read, understood and executed the same for the purposes stated therein; and that except for the facts stated concerning the grievances and appeals relating to City's Attorney, all other facts stated therein are true and correct, based upon her own personal knowledge.

My Commission Expires:

06/05/2027

Patrick J. Cuccurello
Notary Public in and for the State of Texas

Patrick J. Cuccurello
Name, Typed or Printed

