

CITY OF LEON VALLEY
ETHICS REVIEW BOARD MEETING
City Hall – Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, February 19, 2020 at 5:00 p.m.

AGENDA

1. Call to Order and Announcement of a Quorum.
2. Discussion and possible action on the approval of the September 26, 2019, Ethics Review Board Meeting Minutes.
3. Adjourn into Executive Session to confer with Temporary Ethics Compliance Officer / Special Legal Counsel to the Ethics Review Board regarding pending ethics complaint.
4. Reconvene into Open Session at or about 6:00 p.m., to conduct hearing on ethics complaint filed September 9, 2019, by D. Charles making certain accusations against C. Riley.
5. Deliberations, including discussion and determination regarding pending ethics complaint.
6. Adjournment.

Attendance by Other Elected or Appointed Officials:

This is a notice of the possible gathering of a possible quorum of other governing bodies. It is anticipated that members of City Council or any other City boards, commissions and/or committees might attend the Ethics Review Board meeting in numbers that may constitute a quorum. Notice is hereby given that the Ethics Review Board meeting, to the extent required by law, is also noticed as a potential meeting of City Council and any other boards, commissions and/or committees of the City, whose members may be in attendance in numbers constituting a quorum. These City Council members and members of other City boards, commissions, and/or committees may not deliberate or take action as a governing body on items listed on the agenda. [Attorney General Opinion – No. GA-0957 (2012)].

Executive Session:

The Ethics Review Board reserves the right to adjourn into executive session (i.e., a closed meeting) at any time to convene with legal counsel in accordance with Tex. Gov't Code sec. 551.071 or to discuss personnel matters pursuant to Tex. Gov't Code sec. 551.074.

I hereby certify that the above NOTICE OF PUBLIC MEETING(S) AND AGENDA OF THE ETHICS REVIEW BOARD was posted January 11, 2020 at 12:10 p.m. on the Bulletin Board at Leon Valley City Hall, 6400 El Verde Road, Leon Valley, Texas, 78238, and remained posted until after the meeting(s) hereby posted concluded. This notice was also posted on the City's website at www.leonvalleytexas.gov. This building is wheelchair accessible. Any request for sign interpretive or other services must be made 48 hours in advance of the meeting. To make arrangements for such services, please call (210) 684-1391, Extension 216.



Sandra Passailaigue, TRMC
City Secretary





**CITY OF LEON VALLEY
ETHICS REVIEW BOARD**

Leon Valley City Hall – City Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, February 19, 2020, at 5:00 p.m.

MINUTES

The Leon Valley Ethics Review Board met on the 19th day of February, 2020, at the Leon Valley City Hall Council Chambers located at 6400 El Verde Road, Leon Valley, Texas for the purpose of the following business:

Call to Order and Announcement of a Quorum

The meeting was called to order by Chair David Smith at 5:04 p.m. on February 19, 2020. A quorum was declared with Members in attendance being: Chair David Smith, Members Karen Seiffert, Jessica Moffett and Liz Maloy. Member Karen Weidlich arrived at 5:06 p.m.

Also, in attendance were: Temporary Ethics Compliance Officer Alan Bojorquez; Staff Liaison-City Manager Kelly Kuenstler; Interim City Manager Joseph Salvaggio, ACM/HR Director Crystal Caldera, City Secretary Sandra Passailaigue, Fire Chief Michael Naughton, LVPD Detective David Anderson other LVPD staff.

Discussion and Possible Action on the Approval of the January 29, 2020 Ethics Review Board Meeting Minutes.

Chair David Smith noted that the agenda should actually read “January 29, 2020” instead of “October 26, 2019.”

A motion was made by Member Liz Maloy and seconded by Member Karen Seiffert to approve the January 29, 2020 minutes as written. The motion passed unanimously.

Adjourn into Executive Session to confer with Temporary Ethics Compliance Officer/Special Legal Counsel to the Ethics Review Board regarding pending ethics complaint.

Chair David Smith read the caption out loud and then the Board went into Executive Session at 5:05 p.m.

Reconvene into Open Session at or about 6:00 p.m. to conduct hearing on ethics complaint filed September 9, 2019 by D. Charles making certain accusations against C. Riley.

The Board reconvened into Open Session at 6:09 p.m. No action was taken during executive session.

Chair David Smith made the following statement. Good afternoon. Today, February 19, 2020, the Ethics Review Board will consider the Ethics Complaint filed by Donna J. Charles against Chris Riley.

This is a hearing in accordance with Article VII, Section 5 of the City of Leon Valley Ethics Code. At this hearing, the Ethics Review Board will accept evidence in the form of oral, sworn testimony on the charges listed in the complaint, and any documents that are material to the complaint or any defense.

Chair David Smith added that as per Article VII, Section 7 (g)(2), Member Karen Weidlich was stepping down as she was appointed by the complainant and needs to recuse herself from these deliberations. Chair Smith added that Member Weidlich had not participated in any of the deliberations thus far per the ordinance.

No person may be held to have violated the ethics laws unless at least three Board Members find that a preponderance of the evidence supports the conclusion.

Chair Smith stated that mediation had been mentioned before and wants to address it right off the bat. The Code of Ethics, City of Leon Valley Ordinance No. 2019-10, does not provide for mediation as a means of addressing complaints filed under the ordinance. The option of a settlement conference was not provided by the City Council. Instead, the Code of Ethics provides for investigations, hearings, and dispositions by the Board.

To those in the audience and on the dais, please remember that behavior, from anyone in attendance today, which threatens to disrupt the orderly progression of the hearing procedure or intimidates or harasses the hearing participants, is a violation of the Rules of Procedure of this Board and will not be tolerated. Anyone who cannot conduct themselves appropriately will be asked to leave and the hearing will proceed without you in the room. For those of you with cell phones, please silence them and put them away. If you need to make a call, please step outside.

The hearing will proceed as follows: Each party will be allowed up to five minutes for opening statements. The complainant may present her opening statement about the complaint including a summary of the documents and witness testimony to be presented.

Chair Smith reminded everyone that this is the first hearing of a new board of a new ordinance that was just enacted last year. Tonight, is just about finding facts and there is no other agenda up here other than that. This is a learning process for everyone and patience is the name of the game for everyone involved tonight.

Next, both parties will offer documents that are relevant and material to the Complaint or any defense. The Board has the discretion to reject as inadmissible any evidence offered deemed to be hearsay or speculative that would be unfairly prejudicial to a party.

The Board will then question witnesses. All testimony shall be sworn. Please note that parties shall not be allowed to direct or cross-examine each other or witnesses.

The Complainant shall be questioned first, followed by any witnesses offered by the Complainant.

The Board will then question the person charged in the complaint, followed by any witnesses offered by the person charged in the complaint.

Finally, the Board will open the floor for a public comment period. Speakers must sign up in advance on the form provided by the City Secretary.

If the Ethics Review Board is satisfied that the record is complete, it will declare the hearing closed.

The Ethics Review Board will then deliberate in either open or closed session, and make a decision regarding responsibility and sanctioning.

Chair Smith concluded this statement asking if there were any questions on the procedural issues to address before beginning? We already have had one question come up and that is regarding the additional copies of information provided by Councilwoman Donna Charles and Chris Riley that the Board received yesterday and I will turn that over to our Temporary Ethics Officer to address.

Temporary Ethics Officer Alan Bojorquez stated that there are provisions within the Code of Ethics regarding the filing of complaints and the provision of copies of that to the person accused. Beyond that there is not much beyond that in the way of notice in the Code of Ethics in terms of whom provides it to whom. As part of preparing for a hearing you adopted certain procedural rules that provided a mechanism for providing pleading to the other parties, there is no provision for a deadline or a procedure for how other filings such as documentary evidence is provided to the other parties. If this was a court and the other parties would have the duty of serving that information upon each other but it is not clear under the Code of Ethics adopted by the City Council whose duty that is when it comes to these hearings. Is it on the parties? The complainant and the accused? Is it on this board? Is it on City staff? Is it on my office? Those requirements were not specified. And so, while you communicated to the parties about the notice about the hearing, the allegations that are before them, and the rules of procedure, its not clear that that other information was provided to the other parties. I don't have any information about what was provided or when. An extra copy of the packets that were recently submitted were given to me today and I asked staff to hand that to the complainant and to the accused and I think that's been done and I think that the fact that it wasn't handed over until today should be noted for the record. Beyond that, this is an evidentiary hearing, the parties have the opportunities to bring forth evidence in either written form, or oral form. You have the ability to decide whether to admit the evidence, to wait to give the evidence, and ultimately to deliberate based on the evidence which you receive. The parties are here, they can listen, they can question the evidence and they can file any objections they wish.

Chair David Smith asked Donna Charles if she and all of her witnesses were present to which she responded yes.

Chair Smith then asked Chris Riley if all of her witnesses were present to which she responded if they weren't, they have provided a sworn statement.

Chair Smith asked Donna Charles if other than what she had already submitted, did she have any other evidence to present. Ms. Charles replied that she had video clips that she has available and provided already along with her witnesses.

Chair Smith asked Chris Riley if she had any additional information that she wished to provide. Ms. Riley made the following statement, "Good evening Chairman Smith and Board, just five minutes ago I received like thirty exhibits from Councilor Charles and I am not prepared to respond to those thirty exhibits and I respectfully request a continuance. Under the Rules of Procedure, and I did ask Ms. Passailaigue last week when I turned in my documents, under the Rules of Procedure which Mr. Bojorquez gave me in December, under Evidence and Witnesses, § 6. C. The city secretary's office shall forward that information to the parties, board members and the Ethics Compliance Officer at least three business days prior to the hearing. And I just got it five minutes ago so I just feel like I'm not prepared to move forward. Thank you."

Chair Smith announced that the Ethics Review Board would enter into Executive Session at 6.20 p.m. Consultation with Attorney (Temporary Ethics Compliance Officer) to discuss what has been proposed, pursuant to Tex. Gov't Code §§ 551.071 and 551.074.

The Board reconvened into Open Session at 7:03 p.m. with the following action. Mayor Chris Riley has asked for a continuance in order to have adequate time in order to review the final evidence submitted by Councilwoman Donna Charles. The Ethics Review Board feels strongly that all parties need to be prepared adequately. As such we agree that a continuance is in order and granted accordingly. We urge both parties to review the final documentation provided thoroughly. Furthermore, let it be clear that no additional documentation will be accepted past this point. To everyone in the audience we extend our utmost thanks for your patience as we work through this new process.

Chair Smith announced that if it pleases the Board, I call for a motion that we table these preceding until March 9, 2020 at 6:00 p.m. in these chambers. Motion was made by Member Liz Maloy and seconded by Member Karen Seiffert. The motion passed unanimously with the absence of Member Karen Weidlich.

Adjournment

Chair David Smith announced the meeting adjourned at 7:04 p.m.

These minutes were approved by the Ethics Review Board on the 9th day of March, 2020.

APPROVED


DAVID SMITH
CHAIR

ATTEST:


KELLY KUENSTLER
STAFF LIAISON