

CITY OF LEON VALLEY
ETHICS REVIEW BOARD MEETING
City Hall – Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Monday, March 9, 2020 at 5:30 p.m.

AGENDA

1. Call to Order and Announcement of a Quorum.
2. Discussion and possible action on the approval of the February 19, 2020, Ethics Review Board Meeting Minutes.
3. Discussion and possible action on the designation of an interim/acting staff liaison.
4. Adjourn into Executive Session to confer with Temporary Ethics Compliance Officer / Special Legal Counsel to the Ethics Review Board regarding pending ethics complaint.
5. 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.
6. Citizens to be Heard.
7. Deliberations, including discussion and determination regarding pending ethics complaint.
8. 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 March 2, 2020 at 11:13 a.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
Monday, March 9, 2020, at 5:30 p.m.

MINUTES

The Leon Valley Ethics Review Board met on the 9th day of March, 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 5:34 p.m. on March 9, 2020. A quorum was declared with Members in attendance being: Chair David Smith, Members Karen Weidlich, Karen Seiffert, Liz Maloy and Jessica Moffett.

Also, in attendance were: Temporary Ethics Compliance Officer Alan Bojorquez; Staff Liaison-City Manager Kelly Kuentler; 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.

Chair David Smith welcomed everyone and led the Pledge of Allegiance.

Discussion and Possible Action on the Approval of the February 19, 2020, Ethics Review Board Meeting Minutes.

A motion was made by Member Liz Maloy and seconded by Member Karen Seiffert to approve the February 19, 2020 minutes as presented. The motion passed unanimously.

Discussion and Possible Action on the Designation of an Interim/Acting Staff Liaison.

Temporary Ethics Compliance Officer Alan Bojorquez announced that the City Code of Ordinances does state that the city manager serves as the staff liaison to the Ethics Review Board. ECO Bojorquez said that being that there is an interim city manager that assignment should also carry forward to the ERB staff liaison. It was advised that since the LVPD Chief is the new interim city manager so the interim staff liaison would also be the Chief.

A motion was made by Member Liz Maloy and seconded by Member Karen Seiffert to recommend to City Council they designate the interim city manager as our acting staff liaison. The Board voted four (4) for and one (1) opposed with Jessica Moffett casting the negative vote. Chair David Smith announced that the motion passed.

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 5:38 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 6:05 p.m. No action was taken during executive session.

Chair David Smith welcomed everyone back and reminded made the following statement. Good afternoon. Today, March 9, 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. Speaking will be limited to three minutes and each speaker will be allowed to speak one time. Please stick to the point and stay on topic.

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?

Mayor Chris Riley asked if there any guidelines for making objections to which Chair Smith replied that there were not as objections are not part of the Board's procedures.

There being no more questions, Chair Smith called the names of each party to announce their presence. Both Mayor Chris Riley and Councilor Donna Charles were present. Chair Smith then asked each party if all of their witnesses were present.

Mayor Riley stated that she had two witnesses that were unable to be present but that she did have their sworn statements that she would like to read into the record. Chair Smith acknowledged this.

Chair Smith asked that both parties and all witnesses to stand and be sworn in by the city secretary.

City Secretary Sandra Passailaigue swore all present in.

Chair Smith began the hearing by calling Councilor Donna Charles to the podium.

Councilor Donna Charles gave her opening statement which included naming her witnesses as Attorney Ryan Henry, City Manager Kelly Kuentler, LVPD Chief Joseph Salvaggio, Planning & Zoning Director Brandon Melland, and Councilor Catherine Rodriguez.

Chair Smith continued by calling Mayor Chris Riley to the podium.

Mayor Chris Riley gave her opening statement.

Chair Smith asked Councilor Charles if she had any evidence, she would like the Board to consider and if so, please step up to the podium.

While waiting for Councilor Charles to get to the podium, Chair Smith announced to those present that all evidence being presented had previously been provided to the members of the Board and that no new information will be presented on either side tonight.

Councilor Donna Charles stepped up to the podium and presented the evidence as she submitted it.

Chair Smith recessed the hearing at 6:55 p.m. and reconvened the hearing at 7:04 p.m.

Chair Smith asked Councilor Donna Charles to call her witnesses.

Councilor Charles called upon Attorney Ryan Henry who stated that he was present to answer any questions the Board might have for him adding that he is only allowed to speak on certain issues and will not be at liberty to speak on issues considered attorney-client privilege.

Chair Smith proceeded to question Attorney Henry.

Councilor Charles called upon her second witness, City Manager Kelly Kuentler who was questioned by Chair Smith and the Board.

Chair Smith asked that Councilor Charles and Mayor Riley announce what each of their witnesses will be speaking on from this point forward.

Councilor Charles called upon her third witness, LVPD Chief Joseph Salvaggio to speak on the e-mails that the Board was provided. Chief Salvaggio was also questioned by Chair Smith.

Councilor Charles called upon her fourth witness, Planning & Zoning Director Brandon Melland to speak on the 3.12 hearing. Director Melland stated that he was just there to answer questions based on his observations.

Chair Smith excused witness Melland.

Councilor Charles called upon her fifth and final witness, Councilor Catherine Rodriguez who would be speaking on the Mayor's openly public harassment of her and allowing it to happen during the 3.12 hearing.

Chair Smith asked Councilor Rodriguez if she had any examples that the Mayor violated the 3.12 procedures during the hearing. The only additional information Councilor Rodriguez had to offer was stricken as irrelevant by Chair Smith and therefore, Councilor Rodriguez was excused.

Councilor Charles stated she had no more witnesses.

Chair Smith asked Mayor Riley if she had any evidence, she would like the Board to consider and if so, please step up to the podium.

Mayor Riley spoke on the allegations against her before calling her first witness, Josh Stevens who would speak on his dealings with City Secretary Sandra Passailaigue on open record request. Josh Stevens was questioned by Chair Smith.

Mayor Riley called her second witness, Councilor Will Bradshaw who would speak about the procedural rules where he was involved in the 3.12 hearing and the bias. Councilor Bradshaw was questioned by Chair Smith and the Board.

Mayor Riley stated that she had two declarations to read. However, before Mayor Riley could read them, Chair Smith called Mayor Riley and Councilor Charles up to the dais to speak with them.

Chair Smith informed all in attendance that of the two declarations to be read, one was from David Edwards which will not be allowed into evidence or into record as it relates to a charge that has already been passed on. The other is from Mayor Baldrige that members of the Board respectfully declined because she is unable to be here and therefore unable to be sworn in.

Chair Smith announced that public comment would be up right after a short recess.

Chair Smith recessed the hearing at 9:01 p.m. and reconvened the hearing at 9:15 p.m.

Chair Smith announced that each person would be allowed three minutes and only one time to speak. Chair Smith added that there will be no closing statements this evening. Both parties have been briefed on this change in procedure and have accepted it as neither prepared one.

Chair Smith announced that he would call people up to speak in the order which they signed up. Chair Smith added that although Councilor Will Bradshaw signed up to speak, he would not be allowed to do so as he is a witness.

Citizens to be Heard

The public that spoke were as follows:

- Richard Blackmore
- Darby Riley

- Rita Burnside
- Charles Riley (not present so he was skipped)
- Heather Riddle
- Rey Orozco
- Shirley Jonas

Chair Smith closed the public hearing at 9:35 p.m. and announced that the Board would now go into deliberations. Chair Smith proceeded to read aloud, the caption enabling the Board to go into Executive Session.

Deliberations, including discussion and determination regarding pending ethics complaint

Chair Smith reconvened into open session at 11:56 p.m.

Chair Smith thanked everyone for their patience and also thanked his fellow Board Members, City Staff, Temporary Ethics Compliance Officer for their time, guidance and insight into these matters; and applauded the City's leaders for their efforts in leading the City.

Chair Smith proceeded to announce the Board's findings.

On Allegation # 1 that Mayor Riley disclosed information that was confidential and/or privileged. In particular, Riley is accused of having publicly disclosed one or more invoices for legal services rendered to the City of Leon Valley from the Law Offices of Ryan Henry, PLLC, which contained confidential/privileged information.

Allegation # 2 that Mayor Riley did not follow the procedural rules adopted for the 3.12 hearing.

Chair Smith stated that they would begin with Allegation #2 saying that "our elected city officials hold a public trust to act in the best interest of the City as a whole, not their own personal interests. In the case of the 3.12 hearing, it was plainly evident that all parties had a side. Our question then becomes, does having an opinion constitute a violation of the rules of procedure? We have heard much testimony discussing what happened outside the 3.12 hearing. Whether you agree with the 3.12 rules or not, they were still the adopted rules. While the Board feels that the Mayor did undermine public confidence in the process by not leading the hearing in a 100% impartial way and having these outside email exchange, she did in fact still follow the procedures outlined for her to follow. After preponderance of the evidence it is the opinion of this Board that the allegation be dismissed. May I have a motion as such."

The motion was made by Member Liz Maloy and seconded by Member Karen Seiffert

Chair Smith asked City Secretary Sandra Passailaigue to take a roll call vote.

City Secretary Passailaigue proceeded with a roll call vote to which the Members replied: Member Jessica Moffett - Aye; Chair David Smith – Aye; Member Liz Maloy - Aye; and Member Karen Seiffert – Aye.

Chair Smith announced that the motion carried. Allegation # 2 is dismissed.

Chair Smith continued to Allegation #1 saying “the next allegation is not so cut and dry. As Mayor of this City, Mayor Chris Riley is entitled to the unredacted documents of the City. As a steward of that information, it is also her responsibility to safeguard it. We have heard a lot of testimony about what is and what is not privileged information. We heard from Ryan Henry say that some would be privileged information and we have heard that the Attorney General has said that all the information is public. At the root of both sides of the argument is one core fact. There is a review process in place to ensure that all released information is done in accordance with the law. By the Mayor’s own admission, she has stated that she did in fact provide these invoices in question to the public. She has also stated that she did not know that might be privileged and confidential information in them. Because the proper process for the release of the invoices in question was not followed, the Board has no choice but to accept the testimony of the author of those documents, Ryan Henry, that they did in fact contain privileged and confidential information. In light of this fact and after a very thorough preponderance of the evidence, I will now entertain a motion to find Mayor Chris Riley in violation of the City of Leon Valley Home Rule Charter, Section 3-09 (E), It shall be unlawful for the Mayor or a Council Member to release any attorney-client privileged communication. The City Council as the governing body of the City solely holds and is entitled to the attorney client-privilege and it may only be waived by an affirmative vote of two-thirds (2/3) of the City Council. May I have a motion as such.”

The motion was made by Member Liz Maloy and seconded by Member Karen Seiffert.

Chair Smith asked City Secretary Sandra Passailaigue to take a roll call vote.

City Secretary Passailaigue proceeded with a roll call vote to which the Members replied: Member Jessica Moffett - Aye; Chair David Smith – Aye; Member Liz Maloy - Aye; and Member Karen Seiffert – Aye.

Chair Smith announced that the motion carried. This finding shall constitute a reprimand from the Leon Valley Ethics Review Board and no further remedial action is recommended. This concludes this matter.

Adjournment

Chair David Smith announced the meeting adjourned at 12:02 a.m.

These minutes were approved by the Ethics Review Board on the 23rd day of July, 2020.

ATTEST:


JOSEPH SALVAGGIO
STAFF LIAISON

APPROVED


DAVID SMITH
CHAIR