

**CITY OF LEON VALLEY**  
**ETHICS REVIEW BOARD MEETING**  
City Hall – Council Chambers  
6400 El Verde Road, Leon Valley, Texas 78238  
Monday, August 31, 2020 at 6:00 p.m.

**AGENDA**

The City of Leon Valley Ethics Review Board shall hold an in-person meeting with as many Board Members physically present as possible. Some Members of Ethics Review Board may teleconference in. The City will use appropriate guidelines from the Centers for Disease Control and Prevention with respect to social distancing and utilizing additional hygiene controls.

1. Call to Order, Announcement of a Quorum, and Pledge of Allegiance.
2. Discussion and Possible Action on the Approval of the August 17, 2020, Ethics Review Board Meeting Minutes.
3. Citizens to be Heard
4. Discussion and Possible Action on Changes to Section C.5(C) ("Reset or Continuance") of the Ethics Review Board Rules of Procedure for Meetings and Hearings.
5. The Ethics Review Board Shall Enter into Executive Session Pursuant to Texas Government Code Section 551.071 (Entitled "Consultation with Attorney") To Confer with Temporary Ethics Compliance Officer / Outside Independent Counsel Regarding Pending Ethics Complaints:
  - a. Complaint EC060320 by David Edwards.
  - b. Complaint EC081020 by Justin Pulliam.
6. Reconvene into Regular Session and Take Action on Issues Discussed in Executive Session If Necessary.
7. Consider Preliminary and Procedural Motions Filed in EC060320.
8. Conduct Hearing(S) On Ethics Complaint Filed on June 3, 2020, by David Edwards Alleging Violations of The City of Leon Valley Code of Ethics by Monica Alcocer and Kelly Kuenstler.
9. Deliberations, Including Discussion, Determination and Disposition of Pending Ethics Complaint. The Board May Recess into Closed Session to Seek the Advice of The Temporary Ethics Compliance Officer (Tex. Gov't Code 551.071) Or to Consider A Complaint or Charge Against the Public Officials Named in Complaints EC060320 or EC081020 (Tex. Gov't Code 551.074).
10. 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.

**Sec. 551.0411. Meeting Notice Requirements In Certain Circumstances:** (a) Section [551.041](#) does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

I hereby certify that the above **NOTICE OF PUBLIC MEETING(S) AND AGENDA OF THE ETHICS REVIEW BOARD** was posted August 24, 2020 at 8:57 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](http://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.

  
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Sandra Passailaigue, TRMC  
City Secretary





**CITY OF LEON VALLEY  
ETHICS REVIEW BOARD**

Leon Valley City Hall – Council Chambers  
6400 El Verde Road, Leon Valley, Texas 78238  
Monday, August 31, 2020, at 6:00 p.m.

**MINUTES**

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The Leon Valley Ethics Review Board met on the 31<sup>st</sup> day of August, 2020, at the Leon Valley 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 Ethics Review Board Chair David Jordan at 6:01 p.m. on August 31, 2020.

A quorum was declared by roll call with Members in attendance being: Chair David Jordan, Vice Chair Jessica Moffett, Karen Seiffert, and Members Karen Weidlich. Member Liz Maloy remoted into the meeting.

Also, in attendance were: Staff Liaison, ACM/LVPD Chief Joseph Salvaggio, Temporary Ethics Compliance Officer Ross Fischer, City Secretary Sandra Passailaigue, ACM/HR Director Crystal Caldera, and various LVPD.

Chair David Jordan Welcomed everyone and announced that a quorum was present.

**Discussion and Possible Action on the approval of the August 17, 2020 Ethics Review Board Meeting Minutes.**

A motion was made by Member Karen Seiffert and seconded by Member Karen Weidlich to approve Item 2 as presented. The motion passed unanimously.

**Citizens to be Heard**

Chair David Jordan asked City Secretary Sandra Passailaigue to provide the Citizens to be Heard Sign-In Sheet.

- Andrew Cates – passed saying he only signed up that he was present.

Chair Jordan called each person's name that signed in as in order of which they signed in.

Due to technical difficulties, Chair Jordan recessed the meeting at 6:06 p.m.

Chair Jordan reconvened the meeting into open session at 6:18 p.m.

Chair Jordan reminded everyone that there would only be one opportunity to speak during this hearing and that each person would be given three (3) minutes.

- Richard Blackmore – passed
- Justin Pulliam – spoke about EC081020 spoke about Councilors releasing confidential information without the vote of the City Council per the Charter.
- Will Bradshaw – spoke about EC060320 and tax payer money used to campaign for or against a ballot measure.
- Josh Stevens – spoke about it being “weird” to have the citizens speak before hearing what the charges are; and about double standards and conflict of interest.

Member Karen Seiffert asked if she was allowed to comment. Chair Jordan responded that “No ma’am. We don’t comment, we listen. Not on this item.”

- David Edwards – passed on this item.
- Erick Matta – echoed what Josh Stevens but added “The citizens see this so be aware.”

Chair Jordan skipped to Item 7 of this agenda.

### **Consider Preliminary and Procedural Motions Filed in EC060320.**

Chair Jordan announced that there is a motion to dismiss presented by Kelly Kuenstler and turned the floor over to Ms. Kuenstler and her representative Attorney Andrew Cates.

Attorney Andrew Cates introduced himself as the Attorney of Record for Ms. Kuenstler and spoke about the motion to dismiss which he stated was filed based on the law and the facts. He added that there were some inconsistencies to the accuracy of the timeline as it was presented in the complaint specifically as to when the articles were submitted to Ms. Kuenstler for review, when they were submitted for publication and when the petition was actually submitted for review by the city secretary.

There are questions as to whether or not this constituted a measure that is all state law that is going to be stated and argued by the Texas Ethics Commission and is pending a hearing date at this time. As with regards to 1.12.003 and 007, we believe all of what was said in the complaint itself relates to state law and about use of public resources as it relates to the Election Code. It doesn’t really ever talk about if any evidence as to the ordinances themselves in question.

Because the measure was not actually filed with the City until after all of the articles were received, we point out there is no chance that they could have been any private interest at the time that the articles were submitted. So, for this reason we would petition for a motion to dismiss.

**The Ethics Review Board Shall Enter into Executive Session Pursuant to Texas Government Code Section 551.071 (Entitled "Consultation with Attorney") To Confer with Temporary Ethics Compliance Officer / Outside Independent Counsel Regarding Pending Ethics Complaints:**

- a. **Complaint EC060320 by David Edwards.**
- b. **Complaint EC081020 by Justin Pulliam.**

Chair David Jordan read the item caption and the Ethics Review Board went into Executive Session at 6:36 PM.

**Reconvene into Regular Session and Take Action on Issues Discussed in Executive Session If Necessary.**

The Board reconvened into Open Session at 7:14 PM. No action was taken during Executive Session.

A motion was made by Member Karen Seiffert and seconded by Member Karen Weidlich to deny the motion to dismiss and allow the hearing to continue.

Member Liz Maloy asked that the motion be repeated which it was and then she announced that she opposed the motion.

Chair David Jordan proceeded with a roll call vote to which the Ethics Review Board Members replied: Vice Chair Jessica Moffett – Yes; Chair David Jordan – Yes; Member Karen Weidlich – Yes; Member Karen Seiffert – Yes; Member Liz Maloy – Abstain.

City Secretary Sandra Passailaigue reminded Member Maloy that she had voted twice on the item; once oppose and once abstained.

Member Liz Maloy apologized and restated her vote saying she was opposed.

Upon a vote of four (4) in favor and one (1) opposed, Chair Jordan announced the motion carried and that the hearing would continue.

**Conduct Hearing(s) on Ethics Complaint Filed on June 3, 2020, by David Edwards Alleging Violations of the City of Leon Valley Code of Ethics by Monica Alcocer and Kelly Kuenstler.**

Chair David Jordan read the instructions for the hearing to all present before proceeding to the ethics complaint filed by David Edwards against both Council Member Monica Alcocer and City Manager Kelly Kuenstler.

Chair Jordan asked David Edwards if he was represented by Counsel to which David Edwards responded, "Didn't know I could have one."

Chair Jordan asked Attorney Cates if he had any objection to the Board having the complaints in a single, consolidated hearing? Attorney Cates replied, "No sir."

Chair Jordan proceeded to read the Rules of Procedure out loud.

Chair Jordan began with Complainant, David Edwards who was given five (5) minutes to give his opening statement.

David Edwards stepped up to the podium and gave his opening statement saying that “the articles that are in the Lion’s Roar appear to have been edited before the petition was filed but after the petition was filed and they were published after. As for the Express News editorial what it appears to have happened to me is that it seems that public money was used to advocate and sway public opinion on a potential ballot measure.”

There were no questions for David Jordan.

Respondent, Kelly Kuenstler stepped up to the podium and began her opening statement by saying that “this body (the Ethics Review Board) does not have jurisdiction over the Election Code. The Election Code is a Texas Statute and Dr. Edwards was referring to 255.001 which is state level stuff. That is for the Texas Ethics Commission to decide. You all should be deciding on whether or not an ordinance violation occurred. I never heard one ordinance citation out of Dr. Edwards.”

Members of the Board asked Ms. Kuenstler questions.

Chair Jordan recognized David Edwards who said he had “A legal question. Were we supposed to be sworn in? Was our testimony supposed to be sworn in?”

Chair Jordan replied “Yes actually you were.” and immediately swore everyone in.

Chair Jordan asked Attorney Cates if he had any evidence or witness to present to which he responded that he had neither.

Chair Jordan then swore in, via videoconference, Respondent, Council Member Monica Alcocer.

Respondent, Council Member Monica Alcocer gave her opening statement saying that she submitted her articles as she had always done, by sending them to Lisa Martin. A few weeks later she found out that they were accepted and that was it. “It is hard to imagine that I, or Ms. Kuenstler are being faulted for having these articles published.”

Members of the Board asked Council Member Alcocer questions.

Chair Jordan announced that the hearing was now closed.

**Deliberations, Including Discussion, Determination and Disposition of Pending Ethics Complaint. The Board May Recess into Closed Session to Seek the Advice of The Temporary Ethics Compliance Officer (Tex. Gov’t Code 551.071) Or to**

**Consider A Complaint or Charge Against the Public Officials Named in Complaints EC060320 or EC081020 (Tex. Gov't Code 551.074).**

Chair David Jordan read the item caption and the Ethics Review Board went into Executive Session at 7:55 PM.

**Reconvene into Regular Session and take action issues discussed in Executive Session if necessary.**

The Board reconvened into Open Session at 8:49 PM. No action was taken during executive session.

Chair Jordan announced that they would begin with the case against Council Member Monica Alcocer and that as stated in Article VII, Section 7 (g)(2), Member Karen Seiffert would recuse herself as she was appointed by the respondent.

Member Karen Weidlich stated that that it is her opinion that the editorial was self-promotional; that it expressed support of candidates; and that it did not fit the guidelines of an editorial as stated in the Newsletter Content Policy and therefore she motioned to find that Council Member Monica Alcocer violated the Code of Ethics by asking that the editorial be included in the City newsletter, but I don't think that any punishment is required. Vice Chair Jessica Moffett seconded the motion.

Chair Jordan called a recess due to technical difficulties at 8:54 PM

Chair Jordan reconvened the meeting at 8:55 PM

Chair Jordan repeated the motion that was on the floor.

Chair David Jordan proceeded with a roll call vote to which the Ethics Review Board Members replied: Vice Chair Jessica Moffett – Yes; Chair David Jordan – No; Member Liz Maloy – No; Member Karen Weidlich – Yes; with Member Karen Seiffert – being recused.

Chair Jordan announced that the motion died for a lack of majority vote.

On the case against Kelly Kuentler, Chair David Jordan motion that the case be dismissed due to a very ambiguous policy; the fact that she sought legal counsel; that we have three (3) different opinions from three (3) legal experts; and that she requested permission from the editor to publish. Member Karen Seiffert seconded the motion.

Chair David Jordan proceeded with a roll call vote to which the Ethics Review Board Members replied: Vice Chair Jessica Moffett – No; Chair David Jordan – Yes; Member Liz Maloy – Yes; Member Karen Weidlich – No; with Member Karen Seiffert – Yes.

Upon a vote of three (3) in favor and two (2) opposed, Chair Jordan announced the motion carried and that the case against Kelly Kuentler is dismissed.

**Deliberations, Including Discussion, Determination and Disposition of Pending Ethics Complaint.**

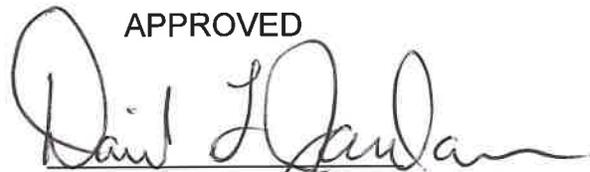
No action taken.

**Adjournment**

A motion was made by Member Karen Seiffert and seconded by Member Karen Weidlich to adjourn the meeting. The motion passed unanimously.

Chair Jordan announced the meeting adjourned at 9:01 PM

**These minutes were approved by the Ethics Review Board on the 17<sup>th</sup> day of September, 2020.**

APPROVED  
  
DAVID JORDAN  
CHAIR

ATTEST:   
JOSEPH SALVAGGIO  
STAFF LIAISON