

CITY OF LEON VALLEY



Home Rule Charter Commission Meeting
Leon Valley City Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, November 5, 2014

AGENDA

1. **6:00 p.m.** Call to order and announcement of a quorum.
 2. Adopting the minutes of the October 15, 2014 Home Rule Charter Commission Meeting.
 3. Discuss, consider and possible action on Article III Mayor and City Council.
 4. Discuss, consider and possible action on Elections.
 5. Discuss, consider and possible action on Initiative, Referendum and Recall.
 6. Adjournment.
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Attendance by Other Elected or Appointed Officials:

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

I hereby certify that the above NOTICE OF PUBLIC MEETING AND AGENDA OF THE LEON HOME RULE CHARTER COMMISSION were posted on the Bulletin Board at City Hall, 6400 El Verde Road, Leon Valley, Texas, on October 30, 2014 at 8:50 a.m. and remained posted until after the meetings hereby posted concluded. This notice was likewise posted on the City website at www.leonvalleytexas.gov. This building is wheelchair accessible. Any request for sign interpretive or other services must be made 48 hours ahead of the meeting. To make arrangements call (210) 684-1391, Ext. 216.


SAUNDRA PASSAILAIGUE, TRMC
City Secretary



Item 2

CITY OF LEON VALLEY



Home Rule Charter Commission Meeting
Leon Valley City Council Chambers
6400 El Verde Road, Leon Valley, Texas 78238
Wednesday, October 15, 2014

MINUTES

The Home Rule Charter Commission of the City of Leon Valley, Texas met on the 15th day of October 2014 at 6:00 p.m. at the Leon Valley City 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.

Chairman Arthur "Art" Reyna called the meeting to order at 6:06 p.m. and determined that a quorum was present.

The minutes reflect that the following Members of the Home Rule Charter Commission were present: Chairman Arthur "Art" Reyna, Vice Chairman Jack Dean, Rudy Garcia, Kathy Hill, David Jordan, Liz Maloy, Darby Riley, and Al Uvietta. Not in attendance and excused were Mike McCarley, Victor Rodriguez, Manuel Rubio.

City Attorney Charles Zech, City Manager Manuel Longoria, Jr., and Human Resources Director & Commission Staff Liaison Crystal Caldera were also present.

Adopting the minutes of the October 8, 2014 Home Rule Charter Commission Meeting.

Chairman Reyna asked the Commission if they had any changes to the minutes. Commission Member Liz Maloy made a motion to adopt the minutes as written for October 8, 2014. Commission Member Rudy Garcia seconded the motion. The motion passed unanimously.

Status from the City Attorney as to where the Commission is in completing the charter.

City Attorney Zech reviewed the items that were remaining as next topics for discussion and action:

- III. The City Council and Mayor
- IV. Elections
- V. Administrative Organization
- VI. Initiative, Referendum and Recall
- VII. General Provisions
- VIII. Transitional Provisions

There was some discussion over deadlines, but City Attorney Zech assured the Commission that they are still on target. The Commission agreed that if there was a need for additional meetings then they would schedule them as necessary.

Adopting Article II Boundaries.

City Attorney Zech provided the Commission with the final version of Article II Boundaries. There was no discussion. Commission Member Al Uvietta made a motion to approve Article II Boundaries, as presented by City Attorney Zech. Commission Member Rudy Garcia seconded the motion. All were in favor of the motion, none opposed, and none abstained. The motion passed unanimously.

Discussion, consider and possible action on Article III Mayor and City Council.

City Attorney Zech began the discussion by reviewing Article III The City Council and Mayor, Section 3.02 Number, Selection, and Term Part B, which stated the following:

“No **[current or] future** elected official shall serve more than three (3) consecutive terms of office and no more than five (5), terms during a lifetime. For purposes of this subsection an official shall have been considered to have served a term upon taking the oath of office, regardless of whether the official serves the complete term. Any official who has served three (3) consecutive terms shall be prohibited from serving another term for a period of two years from the date of the expiration of the third consecutive term”.

A lengthy discussion ensued to determine whether to include current, past or future elected officials in the section outlined above.

Chairman Reyna concluded that there would not be consensus and suggested the Commission address this section at the next meeting when all the Commission members would be present. The Commission agreed and moved on to Section 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies Part D, which states the following:

“All vacancies with unexpired terms of 13 months or greater shall be filled by special election pursuant to State law. All vacancies with unexpired terms of 12 months or less may be filled by appointment of the City Council upon a majority vote, may be left vacant for the remainder of the unexpired term or filled by a special election pursuant to state law at the discretion of City Council.”

City Attorney Zech stated he structured this verbiage based on what he thought the direction was from the Commission. There was some discussion and the Commission requested City Attorney Zech to change “13 months or greater” to “no more than 12 months”. The Commission unanimously agreed on the change and continued to section 9.09 Prohibitions Part D, which states the following:

“It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to office or employment. The City Council or its members will not interfere in **“any manner”** with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager’s own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately”.

There was some concern with the language stating, “any manner”, further discussion continued and the Commission agreed to allow the City Attorney Zech to draft more specific language versus using the terminology “any manner”. The Commission agreed to move forward to Section 3.10 Meetings and Procedures Part A Agendas, which states the following:

“A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 8th calendar day after obtaining the agreement of the second member of City Council. At a meeting of City Council a member of City Council may place an item on an agenda by making a motion to place the item on a future agenda and receiving a second. No discussion shall occur at the meeting regarding the placement of the item on a future agenda. The City Manager may place any item on any City Council agenda.”

The Commission was all in agreement with the above language and the continued to Section 3.11 Ordinances Part A. Passages, which states the following:

Except as may otherwise be prescribed in this Charter or other law, all ordinances adopted by the City Council shall take effect **[number of readings]**.

City Attorney Zech opened the discussion by explaining that Leon Valley is a General Law City and currently requires one reading of an ordinance before it is adopted. He continued by stating that all cities have different provisions, some have one others have two or three readings.

There was some discussion and the Commission agreed to have the term “reading” defined, to have a provision for emergency, and to have two readings of an ordinance before it is adopted. The commission agreed and moved on to Section 3.12 Council Investigations; Hearings; Process Part A, which states the following:

“In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, **employees** or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.”

City Attorney Zech stated that this section is important because you want a process in place just in case something happens. There was some discussion on whether to include the term “employees” in the following, “City Council shall have the power to inquire into the official conduct of employees”. There was no official consensus, and the Commission agreed this was a good stopping point until the next meeting.

Discuss, consider and possible action on Elections.

This item was postponed until the next meeting.

Discuss, Consider and Possible action on Initiative, Referendum and Recall.

This item was postponed until the next meeting.

Adjournment

Chairman Arthur “Art” Reyna announced the meeting adjourned at 9:07 p.m.

APPROVED: _____
Arthur “Art” Reyna
Chairperson

ATTESTED: _____
Crystal Caldera
Staff Liaison

Item 3

III. THE CITY COUNCIL AND MAYOR

Section 3.01 General Powers and Duties

Comment [CZ1]: Approved

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 3.02 Number, Selection, and Term

A. The membership of City Council (members of City Council) shall be composed of the Mayor and [6] Council Members. The Mayor and Council Members shall be elected from the City at large by place for [3] year terms.

B. No [current or] future elected official shall serve more than three (3) consecutive terms of office and no more than five (5) terms during a lifetime. For purposes of this subsection an official shall have been considered to have served a term upon taking the oath of office, regardless of whether the official serves the complete term. Any official who has served three (3) consecutive terms shall be prohibited from serving another term for a period of one year and eleven months from the date of the expiration of the third consecutive term.

Section 3.03 Qualifications

Comment [CZ2]: Approved

The Mayor and each Council Member shall meet the following:

- A. Be a qualified voter in the City and State at the time of taking office;
- B. Be a resident of the City;
- C. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election;
- D. Not be in violation of any provision in this Charter;
- E. Be 21 years of age or older on the first day of the term to be filled at the election;
- F. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

Section 3.04 Judge of Qualifications

Comment [CZ3]: Approved

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

Section 3.05 Compensation

Comment [CZ4]: Approved 10.08.2014

A. City Council shall not receive any compensation unless determined by vote as provided for herein.

1. Compensation of the City Council, and any subsequent increases, shall be determined and approved by City Council upon a two-thirds vote of the City Council.

2. The increase in compensation shall take effect for the Mayor and each Council Member at the beginning of the next term of office for each respective office.

B. The City Council may be reimbursed for expenses incurred in performance of official duty. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council.

Section 3.06 Mayor

Comment [CZ5]: Approved 10.08.2014

A. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law.

B. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council.

Section 3.07 Mayor Pro-Tem

Comment [CZ6]: Approved 09.17.2014

A. The Mayor Pro-Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.

B. The Mayor Pro-Tem shall act as Mayor during the absence or disability of the Mayor.

Section 3.08 Vacancies; Forfeiture of Office; Filling of Vacancies

Comment [CZ7]: Revisit to determine penalties associated with violations and whether to include violations of charter prohibitions.

A. *Vacancies.* The office of a Council Member or office of the Mayor shall become vacant upon death, resignation, removal from office by recall, or forfeiture of his/her office.

B. *Forfeiture.* A Council Member or the Mayor shall forfeit his/her office if he/she:

1. Fails to maintain at any time during the term of office any qualification for the office prescribed by this Charter or by law;

2. Is convicted of a misdemeanor involving moral turpitude, a violation of any state laws regulating conflicts of interest of municipal officers, a felony, or is assessed a deferred adjudication or probation for a felony or any state laws regulating conflicts of interest of municipal officers;

3. Failure to regularly attend City Council meetings without an approved absence obtained by a majority vote by City Council either before or after the absence. There shall be a presumption of failure to regularly attend when three (3) regular meetings are missed during a term year without obtaining an approved absence from City Council.

C. If a member of City Council violates any provision of this section and does not immediately resign, the City Council may conduct an investigation and hearing pursuant to Section 3.12 of this Charter to determine if the office holder is in violation of this section. The hearing shall be held within 60 days of the City Council, as a body, learning of the alleged forfeiture.

D. All vacancies with unexpired terms of 12 months or more shall be filled by special election pursuant to State law. All vacancies with unexpired terms of 12 months or less may be filled, at the discretion of City Council, by appointment of the City Council upon a majority vote, may be left vacant for the remainder of the unexpired term or filled by a special election pursuant to state law.

Comment [CZ8]: Approved 08.15.2014

Section 3.09 Prohibitions

Comment [CZ9]: Revisit to determine penalties associated with violations and whether to include violations of charter prohibitions

A. No member of City Council shall accept or admit liability or pay any claim for damages asserted against the City. City Council shall not accept or admit liability without first obtaining a written opinion from the City Attorney regarding the City's liability therein and only then upon a majority vote of the City Council.

B. No member of City Council shall be employed in or appointed to the positions of City Manager, City Attorney, or Department Head until three (3) years after the expiration of the term for which he/she was elected to the City Council and for any other compensated City position until one (1) year after the expiration of the term for which he/she was elected to the City Council. This subsection shall not apply to a volunteer who receives a stipend that is the same as the stipend received by other similarly situated volunteers.

C. Except for the purpose of inquiries and investigations, unless otherwise provided in this Charter, the City Council as whole and its individual members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the City Council nor its individual members shall give orders to any such officer or employee, either publicly or privately.

D. ~~It shall be unlawful for the~~ Neither the City Council nor any of its members ~~to shall~~ dictate to the City Manager the appointment of any person to office or employment. ~~The No~~ City Council ~~or its members will not~~ shall interfere ~~in any manner~~ with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual

member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

C. 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 of the City Council.

Comment [CZ10]: Approved 10.08.2014

Section 3.10 Meetings and Procedures

Comment [CZ11]: Approved 10.15.2014

A. **Agendas.** A member of City Council may place an item on an agenda by agreement of two additional members of City Council. The member of City Council desiring to place an item on an agenda shall submit in writing the request to place the item on an agenda to the City Secretary who shall inquire with members of City Council as to their agreement. The item shall be placed on the next City Council meeting occurring on or after the 8th calendar day after obtaining the agreement of the second member of City Council.

At a meeting of City Council a member of City Council may place an item on an agenda by making a motion to place the item on a future agenda and receiving a second. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.

The City Manager may place any item on any City Council agenda.

B. **Procedures.** City Council shall, except as otherwise provided for in this Charter, create rules of procedure for all City Council workshops, regular and special meetings and public hearings by ordinance.

Section 3.11 Ordinances

A. **Passage.** Except as may otherwise be prescribed in this Charter or other law, all ordinances shall be read in open meeting of the City Council on two (2) separate days provided that all readings of any ordinance may be by descriptive caption only. Any ordinance necessary to protect the public's peace, health, safety and general welfare, may be passed as an emergency and become effective at once upon one (1) reading of the City Council, upon the approval of a majority vote of the City Council members that it is an emergency at said reading and the finding of an emergency shall be stated within the ordinance.

B. **Enacting Clauses; Signature and Authentication.** The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS;" and every ordinance shall be signed by the Mayor or the Mayor pro-tem and authenticated by seal and signature of the City Secretary.

C. **Publication.**

The caption or title and penalties of every ordinance imposing any penalty, fine, or forfeiture shall, as soon as practical after passage thereof, be published one (1)

time in the official newspaper(s) of the City of Leon Valley. An ordinance required to be published under this section shall take effect the day after publication unless otherwise provided in the ordinance

D. Codification of Ordinances.

1. The City Council shall have the power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the City Council deems advisable, and such printed code, when adopted by the Council, shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper.

2. All printed ordinances or codes of ordinances shall be admitted as evidence in all courts without proof, and shall have the same force and effect as did the original ordinance.

Section 3.12 Council Investigations; Hearings; Process [EXAMPLE]

A. *General.* In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, appointed boards, office, officers, employees or appointed board members of the City. For the purpose of investigations and hearings, the City Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The City Council shall provide, by ordinance, penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence. The City Council shall have the power to punish any such contempt in the manner provided by such ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
2. The office holder subject to any investigation and/or hearing under this section shall be entitled to written notice of the allegations of forfeiture and/or the alleged violation of this Charter as applicable;
3. A special meeting shall be called to hold the hearing;
4. A member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;
5. City Council shall adopt by ordinance rules of procedures to be followed;

6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;
7. The individual who is subject to the hearing shall be provided an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;
8. City Council may ask questions of any individual;
9. No public comment shall be allowed unless agreed to by a majority vote of the members of City Council present. Rules for public comment shall be set by City Council;
10. In the case of a violation of Section 3.08 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of City Council declare the office of said office holder to be forfeited and vacant;
11. In the case of a violation of Section 3.09 of this Charter City Council may on the affirmative vote of a majority of the City Council take any action it determines to be appropriate including, but not limited to, directing further investigation, requesting further information, vote to enforce a penalty pursuant to section _____ of this Charter, vote to bring an action in municipal court, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant.

Item 4

IV. ELECTIONS

Section 4.01 Elections

- A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.
- B. The City Council shall fix the place for holding such election.
- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Leon Valley, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

Section 4.02 Regulation of Elections

- A. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.
- B. The City Council shall appoint the election judges and other election officials.

Section 4.03 Filing for Office

- A. Any person having the qualifications set forth under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
 - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
 - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.
- B. A candidate of City Council shall specify the place number or position the candidate is seeking. **[use only if electing by place]**

Section 4.04 Official Ballot

A. The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.

Section 4.05 Run-Off Election

[if needed] In the event no candidate for an elective office receives a majority of the votes cast for that place in the general or special election or there is a tie, a run-off election shall be held between the two (2) candidates who received the greater number of votes.

Section 4.06 Taking of Office

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.