



**AMENDED MINUTES OF THE MEETING OF THE SPECIAL JOINT MEETING
LEON VALLEY ECONOMIC DEVELOPMENT CORPORATION
AND CITY OF LEON VALLEY CITY COUNCIL
Wednesday, June 10, 2015
AMENDED TEXT IS HIGHLIGHTED**

I. Call to Order and Determine If Quorum is Present

Board President Stephen Ynostrosa called the meeting to order at 6:38 p.m. Board Vice President Claude Guerra, Board Secretary Dave Gannon, Board Treasurer Mike McCarley, Board Member Rudy Garcia, and Board Member Georgia Zannaras were present, constituting a quorum. Board Member Joe Sanchez was absent and excused. Also in attendance was Staff Liaison Claudia Mora, acting as recording secretary. Representing the Board Attorney was Gaines Griffin. Mr. Dan Pozza, attorney, was present.

As this was a special joint meeting, the City Council had a quorum present along with Interim City Manager Hank Brummett, Assistant City Manager Crystal Caldera and City Secretary Sandra Passailaigue. The City Attorney, Charlie Zech was also present.

II. Discussion and Presentation by the City Attorney on the legal relationship between the City Council and the Leon Valley Economic Development Corporation

City Attorney Zech presented the Texas statutes and general information relating to the creation and operations of EDCs. In addition, Mr. Zech discussed the role of the City Council in relation to the EDC.

LVEDC Board President Ynostrosa provided a handout to the LVEDC Board and City Council which outlined a timeline of events which occurred that lead up to the lawsuit and trial:

- 2008: Leon Valley, TX SDAT: El Verde by 2020 conducted with report in 2009
 - Town Center concept part of report
- 2009: LVEDC is created after 2008 election to assess 1/8 of one cent sales tax for economic development
- 2010: LVEDC begins discussion with Larry Little to acquire and develop property for a retail shopping center
- 2010: LVEDC approves funding for Town Center project and application to State for economic development loan for project
- 2011: City Council approves LVEDC funding activity for Town Center project
- 2011: Discussions for 380/Performance Agreement take place
- 2011: Assistance from Drenner, Golden & Wolff law firm to negotiate and finalize Agreement
- 2011: Mediation
- 2011: Lawsuit Filed
- 2011 – 2014: Motions filed
- 2015 Mediation
- 2015: Trial and Verdict
- 2015: Appeal

Mr. Ynostrosa also summarized the lawsuit by providing information on Mr. Little's claim and the LVEDC's position. Mr. Little alleged that he and the LVEDC had agreed to and the City of Leon Valley had approved an agreement. He claimed that the LVEDC, not the City, breached the agreement when it failed to purchase the property even though there was an approved loan to fund the purchase. Little could not sue the City for breach of contract because the City had immunity. Mr. Little's only recourse was to sue the LVEDC. The LVEDC's position was that a contract did not exist.



At the trial, the jury ruled in favor of Mr. Little. The judgment entered was for \$2,641,252.14.

Mayor Riley added that between and including 2011 and 2012, there were motions and appeals to the decisions on the motions. Mayor Riley also clarified that there was a mediation session prior to the lawsuit being filed against the LVEDC.

At this point in the meeting, Mr. Ynostrosa took time to introduce the LVEDC's litigating attorney, Gaines Griffin, and the appellate attorney that the LVEDC was planning to hire for the appeal, Dan Pozza.

Discussion ensued regarding the conduct of business by the LVEDC, the City's involvement, processes for granting funds, etc. Mr. Ynostrosa clarified for the City Council how the LVEDC operated today and how it differs from the time before the lawsuit.

Both the City Attorney, Mr. Zech, and the litigation attorney, Mr. Griffin, provided information on the differences between a 380 economic development agreement and a performance agreement. It was explained that both agreements have statutory origins. A city is authorized to enter into and implement a 380 economic development agreement. The law requires that EDCs have performance agreements in place prior to issuing any grants or funds to projects.

III. Closed Session in Accordance with the Texas Government Code.

The City of Leon Valley Economic Development Corporation Board will Convene in Closed Session:

- A. Pursuant to Tex. Gov't Code Ann. § 551.071 (1),(2) consultation with attorney regarding *Larry Little v. Leon Valley EDC*;
- B. The City of Leon Valley Economic Development Corporation Board will Reconvene into Open Session and may take action on the Closed Session Items

The LVEDC and City Council went into closed session at 7:23 p.m.

The LVEDC and City Council returned to open session at 8:40 p.m. No action was taken in closed session

The LVEDC reconvened for the remainder of their meeting at the Kinman House, 6417 Evers Road at 8:50 p.m.

IV. Consideration of Action to Approve a Contract with Dan Pozza, J.D. to Represent the LVEDC in the Lawsuit *Larry Little v. City of Leon Valley EDC*

Board President Ynostrosa introduced Mr. Pozza to the LVEDC Board. After a brief discussion, Board Secretary Gannon moved to approve the contract with Mr. Pozza to represent the LVEDC during the appeal processes in the lawsuit *Larry Little v. City of Leon Valley EDC*. Board Member Garcia seconded the motion. The motion carried by voice vote.

V. Presentation, Discussion, Review and Consideration of Action to Approve Final Performance Agreement between the LVEDC and the Leon Valley Area Chamber of Commerce

Staff reviewed the changes to the agreement requested by the LVACC and the changes made by Board Attorney Pena. She explained that Mr. Pena did not make all the changes submitted by the LVACC because the changes were to standard, boilerplate language in the agreement.



After some discussion, Board Secretary Gannon moved to approve the final agreement. Board Vice President Guerra seconded the motion. The motion was carried by voice vote.

VI. Adjournment

Board Member Garcia moved to adjourn the meeting. Board Secretary Gannon seconded the motion. The motion carried by voice vote. The meeting was adjourned at 9:20 p.m.

A handwritten signature in cursive script that reads "Patricia Manea".

Patricia Manea
Board President

A handwritten signature in cursive script that reads "Larry W. Proffitt".

Larry Proffitt
Board Secretary