

## **CITY COUNCIL MEETINGS OF THE CITY OF LEON VALLEY, TEXAS, NOVEMBER 16, 2010**

The City Council of the City of Leon Valley, Texas, met on the 16<sup>TH</sup> day of November, 2010 at 6:00 p.m. at the Leon Valley City Council Chambers, at 6400 El Verde Road, Leon Valley, Texas, for the purpose of the following business, to-wit:

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### **SPECIAL CITY COUNCIL WORKSHOP MEETING - 6:00 P.M.**

#### **Call to Order, and Determine a Quorum is Present**

Mayor Riley called the Special City Council Workshop Meeting to order at 6:01 p.m. and asked that the minutes reflect that the following City Council members were present: Garcia, Reyna, Baldrige, Dean, and Nelson.

City staff in attendance: City Manager Lambert, City Secretary Willman, City Attorney McKamie, Assistant City Attorney Onion, Economic Development Director Ryan, and Finance Director Wallace.

**Executive Session in Accordance with the Texas Government Code: Section 551.087, Economic Development and Section 551.072, Deliberations about Real Property.** *Consider Collateral Requirements for the Larry Little Leon Valley Town Center Project Related to and Contingent Upon the State Texas Bank for Economic Development 4B Leverage Fund Loan Approval and other Matters Related to the Larry Little Leon Valley Town Center Project.*

Members of the Leon Valley Economic Development Corporation Board met with the Leon Valley City Council in Executive Session.

The City Council reconvened into Regular Open Session at 6:54 p.m. No action was taken.

**Adjournment.** Mayor Riley announced that following a short break, the Regular City Council Meeting would begin at 7 p.m.

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### **REGULAR CITY COUNCIL MEETING – 7:00 P.M.**

#### **Call to Order, Determine a Quorum is Present, and Pledge of Allegiance.**

Mayor Riley called the Regular City Council Meeting to order at 7:00 p.m. and asked that the minutes reflect that the following City Council members were present: Garcia, Reyna, Baldrige, Dean, and Nelson.

City staff in attendance: City Manager Lambert, City Secretary Willman, City Attorney McKamie, Assistant City Attorney Onion, Community Development Director Flores, Economic Development Director Ryan, Finance Director Wallace, HR Director Caldera, Library Director Trent-Miller, Police Chief Wallace, Public Works Director Vick, and Community Events Committee Staff Liaison Gomez. Also present: Jim Carrillo, Half & Associates, TxDOT representatives Jonathan Bean and Rick Castaneda, and Jim McAden, CPS Energy.

Mayor Riley introduced members of Boy Scout Troop 675, Church of Jesus Christ of Latter Day Saints, Timber Ridge Congregation: Max Andrews, Keith Gardner, Jonathan Kinnard, Jacob Swallow, and Ian Hobson. The Scouts led the assembly in the Pledge of Allegiance.

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**Employee of the Month Award Presentation. (Lambert)** Mr. Lambert informed the City Council that the employee of the month honoree was absent the meeting due to family illness. The City Manager asked that the Council postpone this agenda item until the next meeting.

Motion by Councilman Reyna and second by Council Member Baldrige to postpone the recognition of the employee of the month to the next City Council Meeting on December 7.

**Community Events Committee Presentation. (Carlos Vera, CEC Chairman).** Mayor Riley recognized members of the Committee including Carlos Vera, Darcy Vera, Bobbie Schaeff, Larry Schaeff, Jean Robledo, and Staff Liaison Sylvia Gomez. Mr. Vera reported on the six public special community events the Committee hosts and stages throughout the year including Los Leones Art Festival, the Christmas Tree Lighting, the Holiday Concert, the Xeriscape and Beautification Award, Independence Day Parade, and the Grandparents Day Concert.

### **Citizens to be heard and time for objections to the Consent Agenda.**

There were no Consent Agenda Items removed for separate consideration.

Mike Davis, 6634 Grist Mill, Leon Valley, chairman of the Leon Valley Economic Development Corporation (LVEDC) Board, asked for the City Council's support by allowing the LVEDC Board to take the lead on filling the Board vacancy.

Motion by Councilman Reyna and second by Council Member Nelson to approve Consent Agenda Items 6 through 13. Voting in favor: Garcia, Reyna, Baldrige, Nelson, and Dean. Voting against: None. Mayor Riley announced the motion carried.

### **Consent Agenda**

6. **Consider Approval of the Minutes of the Regular City Council Meetings of October 19, 2010 and November 1, 2010. (Willman)**
7. **Consider Action on M&C # 11-02-10 – a Request for the Continuation of Agreement with the City of San Antonio Police Department for the High Intensity Drug Trafficking Area (HIDTA) Initiative. (R. Wallace)**
8. **Consider Action on M&C # 11-03-10 with Attached Ordinance – a Request to Consider Amending the City of Leon Valley Code of Ordinances, Chapter 12 “Traffic and Vehicles,” by Creating a New Section, Article 12.05, Titled “Operations of Golf Carts.” (R. Wallace)**
9. **Consider Action, by Minute Order, to Appoint Volunteer to City Boards and Committees. (Mayor Riley)** Andrea Nocito was appointed to the Earthwise Living Committee.
10. **Consideration Action on M&C # 11-04-10 with Attached Ordinance – a Request to Purchase 25 Acre Feet of Water Rights through the Regional Water Resource Development Group for a Total Amount of \$139,563. (Stolz)**
11. **Consider Action on M&C # 11-05-10 to Purchase a Case 580 Backhoe from Asco Equipment through the Houston Galveston Area Council (of Governments) Buy System in the Amount of \$64,421. (Vick)**
12. **Consider Action on M&C # 11-06-10 with Attached Ordinance Amending the Fiscal Year 2011 Budget for the General, Water and Sewer, and Community Center Funds to Fund Longevity Pay for Eligible Employees for Fiscal Year 2011. (Lambert)**

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13. **Consider Action on M&C # 11-07-10 Establishing the Contract Terms for the Windtricity® Program as Authorized by the Leon Valley City Council on October 19, 2010. (Lambert)**

**Regular Agenda**

14. **Conduct a Public Hearing and Consider Action on M&C # 11-08-10 with Attached Resolution – a Request to Approve and Authorize the Leon Valley Economic Development Corporation (LVEDC) Project Request for Use of 4b Economic Development Sales Taxes in Excess of \$10,000 for the Construction of Masonry Fencing for Bush’s Fried Chicken, located at 7137 Bandera Road, Being Lot 7, 20, 30 and 35, Block A, CB 4446A, Linkwood Addition Subdivision. (First of Two Public Readings) (Ryan/Mike Davis)**

**A. Presentation by the Leon Valley Economic Development Corporation on the Proposed Project**

Mr. Davis made a brief presentation on the proposed project and encouraged the City Council’s approval of the request.

Council had several questions including whether matching funds would be required or made by the applicant, about the date of the next public hearing, and about the size and cost of the proposed masonry fence.

An additional query was made about the number of public hearings required and the need to take action following each of the public hearings. City Attorney McKamie recommended that the City Council memorialize the Public Hearing by closing it with some action and set the date for the second public hearing.

Economic Development Director Ryan responded there would not be any matching funds; that the size of the fence would be 8 foot tall with other dimensions to be provided at the second hearing; and that 3 quotes or estimates would be brought back at the next Council meeting. Another question raised was whether the Council can approve up to certain amount and leave it up to the LVEDC to use its best judgment and if the Corporation obtains project costs under \$10,000 no second hearing is needed. Mr. McKamie indicated that seemed to be a correct assessment. It was determined that is the nature of the agenda item before the City Council.

**B. Open Public Hearing.** The Public Hearing opened at 7:29 p.m.

**C. Close Public Hearing.** The Public Hearing closed at 7:29 p.m.

**D. City Council to Consider Action.** Motion to approve the proposed project and set the second hearing for December 7, 2010, by Councilman Reyna and second by Councilman Dean. Voting in favor: Garcia, Reyna, Baldrige, Dean, and Nelson. Voting against: None. Mayor Riley announced the motion passed.

15. **Conduct Public Hearing and Consider Action on Attached Ordinances – a Request to Consider Amendments to the City of Leon Valley Code of Ordinances:**

**A. Chapter 1, “General Provisions,” Article 1.06, “Boards, Commissions and Committees,” Section 1.06.002(e), “Tree Advisory Board,” and;**

**B. Chapter 14, “Zoning,” Section 14.02.052, “Definitions,” Section 14.02.501, “Landscape,” Sub-Section (j)(4), “Tree Pruning Restrictions,” and Subsection**

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**(j)(12), "Tree Protection Measures," to Add Language Regarding Public Trees Which Would Make the Tree Advisory Board Eligible for the Tree City USA Program.**

**C. The Tree Advisory Board reviewed the revisions to both ordinances on September 15, 2010 and recommended approval of the revisions 7-0. On September 28, 2010, the Zoning Commission reviewed the revisions to both ordinances and recommended approval by a vote of 7-0. (Flores/Tree Advisory Board)**

Community Development Director Flores introduced this item as being for revisions to two separate ordinances, in two separate sections, both of which pertain to the Tree Advisory Board and the Tree Preservation Regulations. Ms. Flores detailed the proposed changes including the recommended change by the Zoning Commission.

There was some discussion regarding clarifying language which might be needed on the Ordinance amending Chapter 14, Page 1 of 2, in the Section A paragraph, "Public Tree Care & Maintenance," the last sentence references public grounds, which includes trees in the right-of-way or easement, typically considered by property owners to be private property. On the same Ordinance amending Chapter 14, Page 1 of 2, in the Section A paragraph, "Public Tree Care & Maintenance," Item 3, "person is defined for purposes of this section to mean someone other than city departments..." was the suggested wording by City Attorney McKamie as possible clarifying language to ensure that City employees, while still responsible for notifying the Community Development Department in cases involving heritage tree or other tree removals, would not be affected by time delays or obtaining approvals from the Community Development Department.

**D. Open Public Hearing on Both Ordinances.** The Public Hearing was opened at 7:47 p.m., Nancy Marin, 7222 Forest Meadow, Leon Valley. She recommended that penalty clauses be included in the ordinances under consideration. Confirmation was provided that penalty clauses are included in the proposed ordinances.

**E. Close Public Hearing on Both Ordinances.** The Public Hearing was closed at 7:51 p.m.

**F. City Council to Consider Action on Both Ordinances.** Motion by Councilman Reyna and second by Council Member Baldrige to approve the Ordinances with the addition of wording that City employees or departments do not have to get approval in 3 G. Voting in favor: Garcia, Reyna, Baldrige, Dean, and Nelson. Voting against: None. Mayor Riley announced the motion passed.

16. **Conduct Public Hearing and Consider Action on Attached Ordinance – a Request to Consider Amendments to the City of Leon Valley Code of Ordinances, Chapter 14, "Zoning," Section 14.02.305, "Regulations for all Districts, "Subsections (m), "Overlay recommended approval by a vote of 7-0. (Flores/Carrillo)**

Community Development Director Flores provided a brief history of the proposed changes. She turned the presentation over to Jim Carrillo, Director of Half Associates. Also present was Mr. Claude Guerra, Zoning Commission Chair.

Mr. Carrillo characterized the changes as clarification of some of the language in the new overlay district standards brought to staff's attention by Mr. Ernest Eisenberg, property owner and developer, of Greenblum Investments.

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A request was made by Mr. Eisenberg, property owner, to consider amendments to the Zoning Overlay Standards which would add language to the Code to make it less ambiguous. Mr. Eisenberg related that notable is that the Zoning Overlay Standards, as originally written, impose significant compliance costs for items deemed as improvements, possibly resulting in substantial financial burden to developers. Community Development staff and Jim Carrillo started working with Mr. Eisenberg to refine the language, add definitions, and create solutions. Following a period of time allowed to refine the programmatic processes and incorporate the new Gateway Overlay changes in July, Mr. Eisenberg made a request to go before the Zoning Commission. The public hearing to consider the revisions to the Zoning Overlay Standards was held before the Zoning Commission on October 26, 2010. Mr. Claude Guerra, Zoning Commission Chair, addressed the City Council indicating this effort was clarification of some fine points of the language with no major changes to the intent of the Overlay District. The Zoning Commission recommended approval of the revisions by a vote of 7 to 0.

**A. Open Public Hearing.** The Public Hearing was opened at 8:08 p.m., Ernest Eisenberg, 4700 West Guadalupe, Austin, thanked the City Council for taking up this issue. He indicated that the changes are a work in process and he appreciates the City's efforts.

**B. Close Public Hearing.** The Public Hearing was closed at 8:09 p.m.

**C. City Council to Consider Action.** Motion by Council Member Nelson and second by Councilman Garcia to approve the attached ordinance as presented. Voting in favor: Garcia, Reyna, Baldrige, Dean, and Nelson. Voting against: none. Mayor Riley announced the motion passed.

17. **Consider Action on a Request to Approve the Use of the Leon Valley Conference Center with All Fees Waived by the American Legion Post No. 336 on December 12, 2010 for the Annual Pearl Harbor Pancake Breakfast. (Mayor Riley/Walter Geraghty)** Following extensive discussion on this matter clarifying that this request involved a fundraiser for the American Legion Post No. 336 and the need to establish a public benefit, the City Council took several actions after an update by the City Manager. Mr. Lambert read from the City's Official or City-Sponsored Events. Staff will bring a draft policy to the next meeting. He reminded Council that American Legion Post No. 336 events had been co-sponsored twice in the last year. Mr. Lambert shared that there are hundreds of very worthy non-profits in the San Antonio and the City Council maybe swamped with requests for waived use of Leon Valley facilities.

Motion by Council Member Baldrige and second by Council Member Nelson that the City sponsor the Annual Pearl Harbor Pancake Breakfast event. Mrs. Nelson asked if this is a City sponsored event, if the event can be put on the City calendar on the website. City Manager Lambert affirmed that can be done and interjected that even if the event is not City-sponsored it should probably be on the City's web calendar. The Council took action. Voting in favor: Garcia, Reyna, Baldrige, Dean, and Nelson. Councilman Dean asked if the Council take an action contrary to the City's policy. Mayor Riley indicated the Council had just taken a vote. Discussion continued about the need for quid-pro-quo versus

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Councilman Reyna asked a parliamentary question of Mr. McKamie asking if it would be more proper to re-consider the vote to finish the discussion. Mr. McKamie responded yes. Motion by Councilman Reyna and second by Councilman Dean to reconsider the vote for Agenda Item 17. The Council voted unanimously in favor of the motion to reconsider. Mayor Riley announced the motion passed.

Motion by Council Member Baldrige and a second by Council Member Nelson to discuss the fundraising event on December 12 by the American Legion.

Mrs. Baldrige asked for clarification about how this kind of event can be City-sponsored. Mr. McKamie said it depends that public purpose can be done as a quid-pro-quo like the 9-1-1 ceremony. There are some non-profits that are 501c3's that are unsavory that the Council may not want to do business with in Leon Valley. He continued that the Council should ensure that the public knows that this public purpose that is being performed and that Council should focus on the public purpose rather than the Group performing like the 911 ceremony did and consider it on that basis. Mr. McKamie indicated that at a minimum the Council demand complete public access for anyone who wants to come without paying admission and ask that the group perform some public purpose if the City had the means or motivation to do that; if they're performing some public function or ceremony that is the kind of event the City would want to sponsor.

Councilman Reyna asked about the number of the events the City can do without being charged with discrimination and the cost to the City in terms of potential revenues lost by being opened up to anyone wanting to schedule events for free. Discussion continued regarding the need to focus on public purpose performance versus which group is performing. Council Member Nelson brought up other co-sponsored events like Los Leones. Council Member Dean pointed out that Los Leones is co-sponsored by the Community Events Committee.

Councilman Reyna asked if the Council can take action this evening and bring back a policy at one of the next two meetings. Mr. Lambert indicated he had received about 18 calls over the last year or so asking for free use by very worthy groups. Mr. McKamie indicated the Council either decides to do the event or not; there is no loophole created by the Council's action and a new policy will only protect the City to a limited level.

Motion by Council Member Baldrige and second by Councilman Dean to deny the request to waive the fees for the December 12 event based on protocol. Mayor Riley asked for a roll call vote. Voting in favor: Garcia – Aye, Reyna – Aye, Baldrige – Aye, Dean – Aye, Nelson – Aye. Voting against: None. Mayor Riley announced the motion carried.

### **Discussion Agenda**

18. **Consider Action on M&C # 11-09-10 with Attached Resolution – a Request to Consider Partnering with the Texas Department of Transportation to Develop a Short Term Operational Plan for the Review of Traffic Engineering Recommendations on State Highway 16 (Bandera Road). (Lambert/Rick Castaneda/Jonathan Bean)**

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City Manager Lambert introduced this item as an opportunity to partner with the Texas Department of Transportation (TxDOT). Through a succession of meetings with TxDOT, to discuss traffic matters of mutual concern regarding but not exclusive to the traffic congestion on State Highway 16 (Bandera Road), a list of action steps was formulated. One of the steps included working with the City Manager to draft a resolution to partner with TxDOT, as the initiating action for developing a short-term operational plan for the review of traffic engineering recommendations on State Highway 16 (Bandera). Examples of possible improvements include signal optimization and/or removal of traffic signals, operational lanes at intersections, median treatments, and consolidation of driveways among others.

Mr. Lambert introduced TxDOT engineers Rick Castaneda and Jonathan Bean as available to answer the Council's questions regarding the proposed resolution and operational plan. There was some discussion about traffic light optimization. Rick Castaneda indicated traffic patterns change and signal coordination is ongoing. A question was raised regarding the effect of participation on the City's future funding; that it is going to reduce or cut out any funding available in the future because the City has had something similar in the past. The response was that there is not funding to add long term solutions. It was indicated that long range plans and funding decisions are not by TxDOT but are prioritized by the Metropolitan Planning Organization. The timeframe to kick off the study would mostly likely be in the Spring of 2011. The resolution can be placed on the next consent agenda.

19. **Discuss M&C # 11-10-10 with Attached Ordinance – a Request to Consider Amending the City of Leon Valley Code of Ordinances, Chapter 8 “Offenses and Nuisances”, by Creating a New Section, Article 8.11, Titled “Illegal Smoking Products and Ingestion Devices.” (R. Wallace)**

Police Chief Wallace introduced the item, circulated a sample of the product, and answered several questions. A question was raised about paraphernalia. Mr. McKamie indicated that the binding materials used are what affect children. Even if the paraphernalia does not stand up in court; that portion of the ordinance would be severable. When the Texas Legislature acts, the City will repeal the ordinance or ignore the City's then current ordinance. Discussed as that problematic is the spread of the product's sale and use before the next legislative session. The Council asked that the proposed ordinance language be brought back at its next meeting.

20. **City Manager's Report. (Lambert)**
- A. Departmental Monthly Reports.** There were no questions asked about the monthly reports.
- B. Report on Progress Towards Filling Vacancy on the Leon Valley Economic Development Corporation (LVEDC) Board.** Mr. Lambert updated the Council regarding the limited number of applications received by the LVEDC. Following Council discussion, a request was made to see the applications left from the last selection of Board members. Applications will continue to be taken through December 3. A question was asked about the By-laws. Mr. McKamie indicated he will check the By-laws. It was indicated that if the application period is extended calls to former applicants can be made to determine if former applicants are still interested. Mr. Lambert asked how the Council feels about allowing the LVEDC Board to interview and vet applicants. It was reiterated that the City Attorney will check the By-laws to ascertain if the LVEDC Board

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can do the interviews and bring the recommendation to the Council. City Attorney McKamie reminded the Council this item is not on the agenda for action. He indicated although the item is not on the agenda to delegate authority since the staff and the LVEDC are present; they can proceed based on understanding what is being discussed.

**C. Update on Pending City Policies Including Civic Facilities Use, Newsletter / Social Media, E-mail Retention & Archival.** Mr. Lambert informed the Council that efforts to obtain information from other cities had resulted in very limited information and committed to bringing to the next City Council Meeting a draft policy on Civic Facilities Use. Staff continues to work on the Newsletter/Social Media Policy as well as the E-Mail Retention & Archival Policy.

**D. Update on Water Infrastructure Plans.** The plans are to drill a water well, build an elevated storage tank, and continue to buy more water rights for 2011; the upcoming year being the year for major capital projects. The City has called a meeting with the City's water engineer, CEC to put together a proposal for those projects for the Council's consideration. The process and preparation may take from three to six months. Staff will be bringing to the City Council proposals authorized in the FY2010-11 Budget to sandblast and re-paint the elevated water storage tower on Grasshill. Staff will be bringing those proposals to Council on December 7. A question about a new logo or branding has been brought up regarding the re-painting as well as a logo to provide for the Windtricity literature.

**E. Discuss Ordinance Prohibiting Electronic (Text) Messaging While Operating Motor Vehicle in City Limits.** Several ordinances were provided to the City Council for their consideration to determine interest in the City of Leon Valley enacting a similar ordinance. Following some discussion, the Council favored waiting to see what the next Texas Legislative session mandates. The Metropolitan Planning Organization study identified data about distracted driving which can be extrapolated regarding just Leon Valley. The City Manager indicated staff is trying to find a way to bring the information to the Council. It was mentioned that the next State Legislature may be considering it. Enforcement is a problem. It was brought up that the City of San Antonio included a 90 day grace period and only about 7 tickets have been issued. Also discussed is that The consensus of the Council was not to bring this ordinance back. Mayor Riley indicated she would ask the MPO to bring the extrapolated data to the Council.

### 21. Citizens to be heard.

Mike Davis, 6634 Grist Mill, Leon Valley, and LVEDC chair, wanted to inform the Council that the LVEDC had reconvened their Executive Session following the City Council's return to the regular open session. LVEDC reconvened with no action taken. He thanked the LVEDC Board Members present; Nancy Marin, Mike McCarley, Abraham Diaz and Claude Guerra. He further suggested that a policy for facilities use is that only Leon Valley non-profits or businesses can use the City facilities.

Walter Geraghty, 7315 Ellerby Point, Leon Valley, resident and business owner. He heard Mr. Davis' suggestion and indicated that would be a good solution for City facilities use. The City's water towers on Grasshill and by John Marshall High School need to be re-illuminated. He also suggested that when the water tower on Grasshill is re-painted that a logo can be re-positioned to affect better visibility. He also asked about whether the City of Leon Valley has or intends to adopt no smoking in a public area or total ban. He asked that the Council consider such an ordinance in the future.

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**22. Announcements by Council Members and Mayor.**

*At this time, reports about items of community interest regarding which no action will be taken may be given to the public as per Chapter 551.0415 of the Government Code, such as: expressions of thanks, congratulations or condolence, information regarding holiday schedules, reminders of social, ceremonial, or community events organized or sponsored by the governing body or that was or will be attended by a member of the Leon Valley Council or a City official.*

Councilman Garcia informed the Council that he is leaving for Washington D.C. to attend the NALEO (National Association of Latino-Elected Officials) Conference on grant funding.

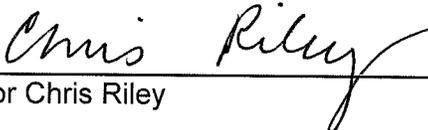
Council Members Baldrige and Nelson wished everyone a happy Thanksgiving.

Mayor Riley thanked Community Development staff for the successful Arbor Day. She mentioned that the developers from Seneca III potential developer requesting a workshop in front of the Council on December 7 or 21. The developer wants to bring evidence of their numbers for either R1 or R6 use. It was brought up that the Zoning Commission wants to hear the information first. The City Attorney will be consulted regarding the legality of hearing the Seneca III proposal first. Mayor Riley asked about having a Town Hall meeting in January, maybe the fourth or fifth Saturday in January to address upcoming issues; does the City need a bond to expand City facilities, economic development and a library coffee shop, beautification, the street maintenance election in 2011, discuss funding, build community, formulating a strategic community. Mr. Lambert interjected that City employees are being given an extra day off at Christmas with staggering time off so City Hall is not shut down. He thanked the City Council for authorizing longevity pay at tonight's meeting.

**23. Executive Session in Accordance with the Texas Government Code.**

The City Council of the City of Leon Valley reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on the posted agenda, above, as authorized by the Texas Government Code Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), and 551.087 (economic development). There was no Executive Session.

**24. Adjourn.** Motion for adjournment at 9:45 p.m.

  
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Mayor Chris Riley

ATTEST:

  
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Janie Willman, City Secretary

