

**CITY COUNCIL MEETINGS OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY,
TEXAS, DECEMBER 15, 2009**

The City Council of the City of Leon Valley, Texas, met on the 15th day of December 2009 at 7:00 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:

REGULAR CITY COUNCIL MEETING - 7:00P.M.

Call to order and Pledge of Allegiance.

Mayor Riley called the Regular City Council Meeting to order at 7:02 p.m. and asked that the minutes reflect that the following members of Council were present: Garcia, Baldrige, and Dean. Mayor Riley announced that Councilman Reyna had an excused absence as he was called to the Valley for a business meeting and Councilmember Nelson was expected to arrive late due to a family commitment at her son's school.

City Manager Lambert, City Secretary Feutz, Police Chief Wallace, Community Development Director Flores, Fire Chief Irwin, Public Works Director Vick, City Accountant Wallace, Library Director Trent, HR Officer/Assistant City Secretary Caldera, Storm water Management Program Consultant Tome, and City Attorney McKamie were also present.

Mayor Riley welcomed everyone and asked Councilmember Baldrige to lead the assembled group in reciting the Pledge of Allegiance.

Presentation of Good Neighbor Awards to Friends of the Library (Mayor Riley).

Mayor Riley presented a Good Neighbor Award to the Friends of the Leon Valley Public Library, to Carol Poss, representing the group, to thank them for their sponsorship of the Annual Breakfast with Santa program. Ms. Poss thanked Mayor Riley and announced that this year had been their 21st Annual Breakfast with Santa and Ms. Poss thanked all the volunteers who support their programs.

Mayor Riley also presented a Good Neighbor Award to Ruben Madrid for bringing his magical holiday spirit to the Breakfast with Santa program and to the Annual Tree Lighting Ceremony.

Presentation of service awards to employees of the City of Leon Valley who have completed 5, 10 and 20 years of service (Mayor and Council).

Service awards were presented by the Mayor and City Council for staff members who had completed five, ten and twenty years of service as follows:

Five (5) Year Awards:

Officer Richard Guerra

City Accountant Vickie Wallace

Additionally, Firefighter/Paramedic Jarron Thomas was to be awarded his award, but due to an EMS emergency call, Paramedic Thomas was not initially, but returned later in the meeting for his award to be presented.

Ten (10) Year Awards:

Patrol Sgt. Michael Ratterree

Lubrication /Preventive Maintenance Laborer
Daniel Rodriguez

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Senior Court Clerk Valerie McCarter

Maintenance Crew Laborer John Von Gruenigen

Twenty (20) Year Awards:

Fire Engineer Richard Schwarz

Assistant Fire Chief Robert Lee

Assistant Finance Director Rose Hurlock

Presentation for Employee of the Month Award (City Manager Lambert).

City Manager Lambert announced the Employee of the Month for the month of December 2009, to be Adam Martinez, with the Public Works Department. Mr. Lambert complimented Mr. Martinez for his work on the Maintenance Crew, for his research on projects to save time and resources, and his suggestions for safer operations. Mayor Riley and Mr. Lambert presented the award to Mr. Martinez and thanked him for his service.

Presentation of status report by the Bandera Road Site - Community Advisory Group (Hoyt/Vick)

The Bandera Road Superfund Site Community Advisory Group (CAG) Chairman John Hoyt addressed Council providing background information on the site from the discovery of the groundwater contamination in 2004 to the present day. Mr. Hoyt presented information on the recent and planned activities of the CAG. He thanked the members of the CAG, whose sixteen regular members represent Leon Valley citizens, the Edwards Aquifer Authority, the San Antonio Water System, Northside Independent School district, AACOG, Bexar County, and the Metropolitan Health Department. He thanked their Council liaison Councilman Garcia for his assistance and the eleven non-voting resource members from the offices of other state and local officials, and the Environmental Protection Agency. He reported on the CAG's quarterly meetings, the quarterly updates from the EPA and their newsletters to keep the citizens informed and which is posted on the City's website. Mr. Hoyt announced the next meeting of the CAG would be January 28, 2010 at the Community Center.

Councilman Garcia complimented Chairman Hoyt for his service stating that Mr. Hoyt is the number two man at the Edwards Aquifer Authority and is an expert in his field. Mayor Riley thanked Mr. Hoyt for his report and for the CAG's work.

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

Mayor Riley asked Councilmembers if they wished for anything on the Consent Agenda to be removed for further discussion. Hearing no objections, she asked if anyone in the audience wished to speak for the "Citizens to the Heard" portion of the meeting.

Seeing no one to come forward for the "Citizens to be heard" portion of the meeting, Mayor Riley asked for a motion to approve the following Consent Agenda items:

Consent Agenda

Consider action to approve minutes of the Regular City Council Meeting of December 1, 2009 (Feutz).

Consider action on M&C # 12-05-09 with attached ordinance - a request to approve a budget adjustment for pay increase to be effective January 2,

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**2010 for City Manager, as approved by City Council on December 1, 2009
(Caldera).**

**Consider action on Ordinance appointing members to the Earthwise
Living Committee (Mayor Riley)**

A motion was made by Councilmember Dean, seconded by Councilmember Baldrige, to approve the Consent Agenda items as listed above. Upon unanimous vote, Mayor Riley announced the motion carried.

Action Agenda

Discussion on a request from Bexar County to approve an Interlocal Agreement for Watershed Projects with Bexar County for the Bexar County Flood Control - Huebner Creek Enhanced Conveyance (LC-17) Project, and Council to consider any action as may be appropriate (City Attorney).

Mayor Riley stated that this agenda item was discussed at the last Council meeting, and Council had asked the City Attorney to work with Bexar County to resolve concerns in the contract originally proposed by Bexar County. Mayor Riley stated that she had met with Commissioner Elizondo's office and requested that the agreement signing not be a factor in determining when the residents receive their appraisals, and she reported that Bexar County required that the agreement be signed before any appraisals are released.

City Attorney McKamie explained there were meetings last week with Bexar County to discuss changes to originally proposed contract language. He explained that generally the language that was being presented in the revised contract was the best that could be negotiated.

He reviewed areas that the City Council had expressed concerns about at the last City Council meeting:

1. The term "substantial completion" in the contract - additional language now makes it clear that the County will be responsible for all project management and administration upon substantial completion through final acceptance of the project. He noted that the County will obtain one-year warranties from the contractors upon completion. Mr. McKamie also noted that a definition is now included under Article IV in the contract for "substantial completion".
2. Mr. McKamie stated that copies of all existing finished appraisals on the properties of the El Verde area are to be delivered 45 days after Council and Bexar County sign the agreement, but should be by January 31, 2010.
3. "Oversight" responsibilities were replaced with phrasing of "monitoring" and "observation," which will more accurately reflect the City's duties and responsibilities.
4. Mr. McKamie noted that concerns of specific wording requested by Councilmember Nelson have been addressed as best as could be negotiated with the County. He stated that the revised agreement more adequately reflects the City's role in the project.

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Mr. McKamie also reported that he felt that the City had received good cooperation from the County in resolving many of the concerns of the Council.

Councilmember Baldrige expressed her appreciation for the County and the City Attorney working to resolve concerns in this contract.

Councilman Garcia thanked everyone for their hard work and asked for clarification that if Council approves the agreement, they are only agreeing to maintain whatever properties the Council buys out. Mr. McKamie confirmed that was correct.

Councilmember Dean expressed his appreciation to both the City Attorney and the County for working together to make the agreement clearer and stated that he felt that it was not fair to make the residents wait any longer than was necessary.

Resident Al Uvietta recounted work he had done in 1978 with the Medina River area when a 22-foot wall of water was followed by a 25-foot wall of flood water and the resulting flood damage and loss of life. He spoke of the importance of people's safety in flood prone areas and he urged Council to move forward on the contract.

Resident James Scheffler, 6205 Jeff Loop, asked why Bexar County changed their plans when originally they were not interested in the north side of Jeff Loop and asked City Council to tell Bexar County to remove the north side of Jeff Loop from the buy out list of properties.

Resident Patty Schultz, 6204 El Verde Road, urged Council to sign the contract and she recounted her memories of rescues and flooding in the past.

A motion was made by Councilmember Baldrige, seconded by Councilmember Dean, to approve the Interlocal Agreement for Watershed Projects for the Bexar County Flood Control-Huebner Creek Enhanced Conveyance (LC-17) so that it will allow the appraisals to move forward and be sent to the residents and if and after Bexar County does the buyouts, the City of Leon Valley will do property maintenance. Upon unanimous vote, Mayor Riley announced the motion carried.

Public Hearing to consider action on Plat Case # 09-118, a request by Amerisurveyors, on behalf of C.P. Stewart, property owner, to replat approximately 0.269 acres of land being ½ of Lot 16 and all of Lot 17 to new Lot 49, Block F, CB 4446, Linkwood Additional Subdivision, in the 7500 block of Linkwood Drive. (Flores)

Community Development Director Flores addressed Council presenting case information regarding the replat of approximately 0.269 acres of land being 1/2 of Lot 16 and all of Lot 17 to a new Lot 49, Block F, CB 4446, Linkwood Addition Subdivision, in the 7500 block of Linkwood Drive. She reported that the applicant has asked for a variance to defer sidewalk construction to the building phase of the project and that the replat is in substantial conformance. She stated that 25 letters were mailed to property owners within 200 feet of the property but no letters were returned in favor of nor against the case and none were returned as undeliverable. She informed Council that the applicant was unable to attend tonight's hearing as he was in the hospital, but a representative from Amerisurveyors was present to answer any questions.

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A. Public Hearing

Mayor Riley opened the public hearing at 8:00 p.m. and invited anyone to address Council on the case. Hearing no one, Mayor Riley announced the closing of the public hearing at 8:01 p.m.

B. Council to Consider Action on case.

A motion was made by Councilmember Dean, seconded by Councilmember Garcia, to approve Plat Case # 09-118 with the requested variance, as presented. Upon unanimous vote, Mayor Riley announced the case was approved.

Consider action on M&C # 12-07-09 with attached ordinance - a request for a budget adjustment to purchase taser equipment from the Police Forfeiture Fund (Chief Wallace).

Police Chief Wallace addressed Council stating that since 2004, ten Police Officers have sustained injuries while trying to restrain or arrest suspects. He explained that electronic immobilization devices (EID) can safely immobilize hostile or resisting individuals during a lawful arrest process or confrontation. He stated that he is requesting authorization to purchase six Stinger Systems S-200 AT with integrated camera systems, not Tasers and the associated budget adjustment to cover the purchase costs. He noted that Stinger System technology is different from tasers, and since the Stingers were produced in 2000, and with having had tens of thousands of applications in the field - they have not had an injury or death related to the use of the product and have never been sued due to weapon usage.

Chief Wallace stated that he has had two officers already certified as instructors for this weapon system and will train two officers from each shift in use of the Stinger. He also reported that of 14 local cities, 10 are using EIDs and only one, San Antonio, has known litigation and they were using Tasers, not Stingers.

The Chief explained that the Stingers to be purchased are equipped with a camera so that their use can be monitored and the cost of \$6,318 will come from the Police Forfeiture Fund.

At 8:09 p.m., Councilmember Nelson arrived at the meeting and joined Councilmembers at the dais.

City Attorney McKamie noted that the Assistant City Attorney Onion was very involved in use of the EID and would like to be involved in the training.

Following Council discussion on the importance of proper training for use of this weapon, a motion was made by Councilmember Dean, seconded by Councilmember Baldrige, to approve the purchase request and the associated budget adjustment as presented. Upon unanimous vote, Mayor Riley announced the motion carried.

Consider action on a Resolution of the City of Leon Valley, Texas supporting the 1st Amendment of the U.S. Constitution and the preservation of the Texas Open Meetings Act through its amendment to comply with the U.S. Constitution, and supporting and joining with the City of Alpine's Lawsuit to protect the rights granted

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to citizens pursuant to the 1st Amendment of the U.S. Constitution from the criminal provisions of the Texas Open Meetings Act (City Attorney McKamie).

City Attorney McKamie explained that he has always felt that the Open Meetings Act (OMA) violated the first amendment rights of local officials. He explained that violations of the Texas Open Meetings Act carry a penalty of jail time, as it does in only five of fifty states in the United States, and does not affect members of the Legislature. He explained the case involving officials in Alpine, Texas. Mr. McKamie noted that the case was not asking for deletion of a penalty for violations of the OMA, but rather that jail time be eliminated. He reported that the Texas Municipal League has not taken an official position on the lawsuit, and he stated that he is an attorney of record on this lawsuit. He noted that a lawsuit was filed on behalf of four cities and other elected officials against the Texas Attorney General.

Councilmembers discussed merits of supporting and joining in the lawsuit or just considering a resolution of support for this issue. City Attorney McKamie stated that there is no cost to the City for their support of this lawsuit.

Following discussion, a motion was made by Councilmember Dean, seconded by Councilmember Baldrige, to revise the wording of the originally considered Resolution so that Resolution 09-034 will read: "Resolution of the City of Leon Valley, Texas supporting the 1st Amendment of the U.S. Constitution and the preservation of the Texas Open Meetings Act through its amendment to comply with the U.S. Constitution, and supporting the City of Alpine's lawsuit to protect the rights granted to citizens pursuant to the 1st Amendment of the U.S. Constitution from the criminal provisions of the Texas Open Meetings Act" and deleting any wording in the resolution that would indicate that the City of Leon Valley is joining in the lawsuit. Upon vote, Mayor Riley announced the revised wording of Resolution 09-034 was approved.

City Attorney McKamie stated that he should have a report within the next thirty days on the case.

Discussion Agenda

Discussion on staff findings in response to petition for closure of Hodges Drive to traffic from Evers Road (Lambert).

City Manager Lambert reported on the staff findings against closing Hodges Drive due to issues of turn around room on the street for large vehicles such as Waste Management vehicles and the City's fire engines. He reported issues raised such as motorists not paying attention to signs that there was no outlet on Hodges Road and driving down and trying to turn around on the street or then traffic finding an alternative and moving to Althea from Hodges. He reported that additional fire hydrants would be required if the road is closed at a cost of about \$5,000 - \$7,000 per hydrant with labor costs. He encouraged Council to require signatures from all residents/property owners along Hodges Drive to be included in the petition before Council makes any decision on the road closure.

Questions were raised as to who would fund the additional signage, gates, turn around area, and fire hydrants if the street was closed and the delay in EMS response time with a road closure.

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Resident April Culek, from 4908 Hodges Drive, encouraged the City to pay all costs for the road closure, as she reported is done in the City of San Antonio, and to approve the road closure.

Resident Walter Geraghty addressed Council expressing his concerns for closing streets when residents asked and what will happen when others want their streets closed and how will residents and emergency services travel to get between Evers and Bandera without driving into San Antonio.

Council discussion included the need for better cost estimates for the turn around and additional hydrants, other alternatives that could be considered, the need for traffic counts for Althea, crime rate statistics for the general area, information on how large vehicles can turn around if the street were closed, and the need for all the neighbors to sign the petition.

No action was directed until a full petition is returned to Council and answers to Council discussion concerns are received.

Mayor Riley and Council awarded the five-year service award to Firefighter/Paramedic Jarron Thomas.

City Manager's report.

A. Monthly Reports for November 2009

City Manager Lambert reported that each member of Council has received a disk with the monthly reports. Oral monthly reports will be given to Council quarterly and will begin with the Office of the City Secretary in January 2010.

B. Financial Report for November 2009

Mr. Lambert provided information on revenue and expenses for all departments for the month of November 2009 and reported that sales tax for November is down 7.2% from November 2008. He informed Council that work would begin in January 2010 on the concrete stain for the flooring in the Conference Center and complimented staff from the Economic Development Department for the great job with increased rentals of the centers over the last year.

Councilmembers asked about the number of Trade and Market Day vendors who pay on an annual basis and complaints they have received for too many jewelry vendors. Additionally, Councilmember Nelson asked for a survey of vendors from the last twelve months of their likes, dislikes, and preference for number of shows per year. Mayor Riley reported that vendors have told her that they feel they have enough traffic and don't want the events discontinued.

C. Report on findings from City Hall foundation inspection

Mr. Lambert reported that the contractor who inspected City Hall reports that some settling has occurred and it is "minor" and no foundation repairs are recommended for the main City Hall, except for the Fire Station.

D. Present list of contracts that will be reviewed for 2010

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The City Manager reviewed the list of contracts that will need to be addressed in 2010: EMS billing service contract, Helotes Dispatch contract, CPS CIED funds to expire, Farmers' Market Contract, NW Senior Citizens' Club Contract to use the Community Center, Halff and Associates contract for Phase 1 concluded and Council will need to decide if they wish to move forward with Phase 2, the City Attorney's contract expires the end of September 2010, the LVEDC service agreement will be brought back during the budget cycle, the Municipal Services agreement for audit of hotel/motel taxes, Stormwater Management Consultant contract is an annual contract, and annual renewal of State and Local Task Force agreements.

E. CPS Energy CIED Fund use update

Mr. Lambert reported that he has met with CPS Energy representative McAden to discuss about fourteen possible projects to use the City's CIED funds that will expire at the end of January 2010 if not allocated to an approved project. He reported that only three projects were identified by CPS Energy as being possibly acceptable projects: replacement of wooden poles with steel poles, lights along Bandera Road in front of the Huebner-Onion Homestead, and lights up and down Poss Road. He reported that he has also asked CPS Energy to consider just refunding the CIED funds to the City to use for development projects.

Citizens to be heard.

None.

Announcements by Councilmembers and Mayor.

A. Report on Holiday Events - Lighting Ceremony, Concert, Trade & Market Days, and Breakfast with Santa

Mayor Riley reported on successful holiday events in the City. Councilmember Nelson reported lower attendance at the Breakfast with Santa and at the Holiday Concert.

B. Report on JLUS Committee Meeting (CM Reyna)

C. Report on Career Day at Driggers Elementary (CM Nelson)

Councilmember Nelson reported a rewarding experience at the school with the students. She asked that Driggers Elementary School and Rudder Middle School student choirs and bands be included in the Tree Lighting Ceremony next year.

D. Report on Reading with Kindergartners at Driggers Elementary (Mayor Riley).

Mayor Riley reported on her experience with the kindergarten children at the elementary school.

E. Report on MPO Meeting of December 7, 2009.

Mayor Riley reported that the January 11, 2010 meeting for ARMA has an agenda item to give back Bandera Road to TxDOT from their list of toll road projects. She also reminded everyone of the VIA SmartWaySA meeting for January 27, 2010 at 7:00 p.m. at the Community Center for public input on mass transportation options in our area.

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F. Holiday Wishes

Councilmembers asked that the marquees display “Happy Holidays” from the City Council. They extended their holiday wishes for the season to everyone.

Convene into executive session in accordance with the Texas Government Code, Section 551.072 “Deliberations about Real Property” to discuss land acquisition options.

Mayor Riley announced that the City Council would convene into executive session in accordance with the Texas Government Code, Section 551.072 “Deliberations about Real Property” to discuss land acquisition options at 9:28 p.m.

Reconvene into open session and consider discussion and any actions as appropriate from executive session regarding “Deliberations about Real Property”.

Mayor Riley convened the Council into open session at 9:53 p.m.

A motion was made by Councilmember Dean, seconded by Councilman Garcia, to approve the City purchasing the 2.277 acre tract being Lot P-7H, Block 432, CB 4330, Leon Valley, Texas, also known as 6916 Poss Road, for the land purchase price of \$30,000. Upon vote, Mayor Riley announced the motion carried.

Adjourn.

Hearing no further business or discussion, a motion was made by Councilmember Dean, seconded by Councilmember Nelson, to adjourn the meeting. Mayor Riley announced the meeting adjourned at 10:15 p.m.

Chris Riley
Mayor Chris Riley

Marie Feutz
City Secretary

Approved by unanimous Council vote at the Regular City Council Meeting of January 5, 2010.