

CITY COUNCIL MEETINGS OF THE CITY OF LEON VALLEY, TEXAS, DECEMBER 7, 2010

The City Council of the City of Leon Valley, Texas, met on the 7TH day of December, 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:

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 6:03 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: Assistant City Attorney Onion (6:15 p.m. arrival), City Secretary Willman, Community Development Director Flores, Fire Chief Irwin, Librarian Trent-Miller, and Police Chief Wallace.

Others in attendance: Grant Writer Kathryn Word. Guest speakers included: Chris Villarreal, Remedial Project Manager, Environmental Protection Agency, Region 6, and Melanie Mills, Associate Designer, Community Planning & Design Team, E² Inc.

Presentation of Remedial Update on the Bandera Superfund Site. ((Chris Villarreal, Remedial Project Manager, Environmental Protection Agency (EPA), Region 6))

Mr. Villarreal announced the primary purpose of tonight's meeting is to discuss the ReUse Assessment that was done as part of the investigation of the Bandera Superfund Site but that he will be yielding the majority of the time to Ms. Melanie Mills of E² Inc.

Mr. Villarreal provided the City Council with two updates. The first update is that the November water supply sampling done on a monthly basis from the City's two water wells tested non-detectable. The next sampling is planned for the first week in January 2011.

The second update is about the Region 6, EPA remedial investigation has been ongoing for the last 2 ½ years. The remedial investigation phase of the work is anticipated to be completed in the Spring of 2011 with the release of a document called a record of decision whereby remedies will be identified to help remediate the contaminated groundwater and contaminated shallow soils.

A couple of activities are planned for January 2011 including an assessment of additional technologies; bioaugmentation, adding amendments to the groundwater to see if that will be effective in breaking down the contaminants and a couple of other studies are also planned for January.

Other than that, the initial phase of the investigation is being wrapped up with the EPA moving on to the remedy part. Prior to selecting a remedy, there will be a 30 day public comment period. Mr. Villarreal indicated he will present information to the City Council before the 30 public comment period to inform Council of the alternatives the EPA is considering. Documentation will be provided, with records for review, to the Library. Copies of the remedial investigation report will be available for review. He indicated that although the report will not be final, electronic copies will be provided for review; He mentioned that persons who serve on the Citizens Advisory Group are interested in seeing the information as it becomes available.

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Mr. Villarreal introduced Ms. Mills who will be presenting the Reuse Assessment Plan of the Superfund Site. He emphasized the importance of future land use plans for the affected properties as part of the remedy selected, now and in the future, so that as remedies are planned there is no conflict.

Presentation of the Reuse Assessment Plan for the Bandera Superfund Site. (Kristie Flores/Melanie Mills, Associate Designer, Community Planning & Design Team, E² Inc.)

Community Development Director Flores introduced Ms. Mills and distributed copies of the finished product, the result of the technical assistance grant written by Grant Writer Kathryn Word.

Ms. Mills reiterated that E² Inc. was brought on-board as consultants for EPA to carry out Reuse planning for the Bandera Road Superfund Site. She covered topics integral to Revitalization Strategies for Green Infrastructure and Economic Development: Defining Green Infrastructure, Strategy One which involves creating Huebner Creek Greenway, Strategy Two which involves Selecting a Green Streets Network, and Strategy Three which involves Building Regional Green Links. She indicated the three strategies form the basis for Future Land Use Considerations including remedial considerations. *Due to the extensive information provided in the presentation referencing two documents: the Reuse Planning Bandera Road Superfund Site document dated December 7, 2010, and the Reuse Planning Bandera Road Superfund Site Overview dated June 10, 2010; the documents are attached for reference.*

Adjournment. The meeting adjourned at 6:42 p.m.

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.

Mayor Riley announced that City Manager Lanny Lambert's absence from the meeting was excused and that Assistant City Attorney Onion would be sitting in for the City Manager.

City staff in attendance: Assistant City Attorney Onion, City Secretary Willman, Community Development Director Flores, Economic Development Director Ryan, Finance Director Wallace, HR Director Caldera, Librarian Joyce Trent-Miller, Police Chief Wallace, and Assistant Public Works Director Stolz.

Also present: Kathryn Word, Grant Writer, Jim Carrillo, Halff & Associates, City Engineer Sia Sayyadi, TxDOT representatives Clay Smith, Jonathan Bean and Rick Castaneda.

American Legion Post No. 336 Commander Walter Geraghty led the assembly in the Pledge of Allegiance.

Presentations Agenda

Proclamation Conferring Honorary Leon Valley Citizenship on Raymond L. Davis, Pearl Harbor Survivor. (Mayor Riley) Mayor Riley presented Mr. Raymond L. Davis with a proclamation and the cake purchased for her birthday recognition. Mr. Davis recalled some of

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his experience on morning of December 7, 1941, when the Japanese Imperial Navy conducted a surprise military strike against the United States Naval Air Base at Pearl Harbor, Hawaii. He recalled praying that day would not be his last day on earth. He asked that everyone remember those who gave their lives at Wheeler Airfield in Pearl Harbor on December 7.

American Legion Post No. 336 Commander Walter Geraghty made some brief remarks highlighting the rapid growth of the Post in Leon Valley. There is a Pearl Harbor Pancake Breakfast on Sunday, December 12 between 8 a.m. and 12 noon. He invited everyone to attend, eat breakfast, and speak with Mr. Raymond L. Davis. He noted the Post is changing its name to Audie L. Murphy American Legion Post after the most decorated World War II veteran. He further noted that the L. in Audie L. Murphy is the abbreviation for Leon as in the City of Leon Valley's name.

Proclamation Honoring Aaron Joseph Schulze for Outstanding Achievement in Earning the Rank of Eagle Scout. (Mayor Riley) Mayor Riley announced that due to other commitments, Aaron Joseph Schulze will be present at the next City Council Meeting to receive his honor.

November Employee of the Month Award Presentation. (Lambert) Mayor Riley announced that Ms. Melinda Ybarra could not be present at tonight's meeting and it is hoped she will be present at the next City Council Meeting.

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

Councilman Reyna asked that Consent Agenda Item 5 be pulled for separate consideration. Mayor Riley asked that Consent Agenda Item 4A, the Minutes of the Special Workshop and Regular City Council Meetings of November 16, 2010, be pulled for separate consideration.

Al Uvietta, 6923 Sunlight Drive, thanked the Public Works Department for doing a magnificent job of very carefully working to affect trail stabilization in the natural area with the work being accomplished this week. He noted that he had spoken with at least 25 persons who were very much in favor of the improvements made.

Motion by Councilman Dean and second by Council Member Baldrige to approve Consent Agenda Items 6, 7, 8, 9, 10 and 11. Voting in favor: Garcia, Reyna, Baldrige, Nelson, and Dean. Voting against: None. Mayor Riley announced the motion carried.

Consent Agenda

4. Consider Approval of the Minutes of the:

A. Special Workshop and Regular City Council Meetings of November 16, 2010. (Willman)

Mayor Riley noted on page 9 of 9 in the Announcements by the Mayor and Council, during the announcement about a Town Hall Meeting, that she intended for the Town Hall Meeting to be held on the fourth or fifth Saturday in January 2011 rather than January 4 or 5.

Motion by Council Member Baldrige and second by Councilman Garcia to approve the minutes with the noted correction. Voting in favor: Garcia, Reyna, Baldrige, Nelson, and Dean. Voting against: None. Mayor Riley announced the motion carried.

B. Special Workshop City Council Meeting of November 30, 2010. (Willman)

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5. **Consider Action on M&C # 12-01-10 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/Clay Smith/Rick Castaneda/Jonathan Bean)**

Councilman Reyna asked if Section 2 in the Resolution would repeal the resolution the City Council approved in 2006 against an overhead toll road; he referenced the wording "Section 2. All resolutions of the City of Leon Valley heretofore adopted which are in conflict with the provisions of this resolution be, and the same are hereby repealed..." He wanted to ensure that this language does not repeal the resolution adopted four years earlier against having an overhead toll road.

Clay Smith, Assistant Texas Department of Transportation (TxDOT) District Manager, clarified that any long range planning that could involve managed lanes or toll lanes is not in the plan. He noted managed lanes or toll lanes would have to be part of a long range plan by the Metropolitan Planning Organization (MPO). He emphasized that TxDOT is not entertaining any of the toll elements. What is indicated and will be under consideration are short term or interim solutions to allow Bandera Road traffic to flow through more efficiently. Mr. Smith noted that TxDOT will bring some options for consideration to the Council.

Mayor Riley thanked Mr. Smith for the clarification that this resolution would not repeal the former resolution stating the City's opposition to a toll road and that the current resolution does not reference toll elements in the plan.

Council Member Nelson citing the third "Whereas, the City of Leon Valley recognizes the construction of necessary infrastructure to solve the long-range needs of the Bandera Road corridor is not financially feasible at this time; and" in the proposed Resolution. She referenced Mr. Smith's remarks about short term solutions and asked for assurance that in 20 years when TxDOT funding is available that the City of Leon Valley is not positioned again for possible installation of a toll road.

Clay Smith reiterated his remarks that what is proposed are short term operational improvements and that the language Council Member Nelson cited acknowledges that there is no funding to solve long-range infrastructure needs. He further noted that the MPO does not have a long range plan identified because it does not have the amount of required funding required to do the work; the wording cited in the proposed resolution is acknowledgement of that fact.

Mrs. Nelson asked if the wording needs to be changed. Mr. Smith clarified that the wording is correct as presented.

Motion by Councilman Reyna and second by Councilman Garcia to approve the Resolution with TxDOT. Voting in favor: Garcia, Reyna, Baldrige, Nelson, and Dean. Voting against: None. Mayor Riley announced the motion carried.

6. **Consider Action on M&C # 12-02-10 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)**

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7. Consider Action on M&C # 12-03-10 with Attached Ordinance – a Request Seeking Approval of a Budget Adjustment for the Rollover of an Energy Efficiency and Conservation Block Grant (EECBG) Program Funding and Authorization for the City Manager to Enter into an Agreement for Infrastructure Improvements for the City of Leon Valley's Senior Citizen Center Project at the Leon Valley Community Center. (Ryan/Sia Sayyadi)
8. Consider Action on M&C # 12-04-10 with Attached Ordinance Approving the Tax Roll for the City of Leon Valley, Texas, for the Year 2010. (Lambert)
9. Consider Action on M&C # 12-05-10 with Attached Ordinance Approving Budget Adjustments to the Enterprise Fund to Include Funding for the Meter Replacement Program. (Stolz)
10. Consider Action on M&C # 12-06-10 Approving Budget Adjustments to the Enterprise Fund to Roll Over Funding for the Completion of the 2010 Water and Sewer Project. (Stolz)
11. Consider Action on M&C # 12-07-10 Authorizing the Purchase of Three Police Patrol Vehicles from the Police Forfeiture Fund. (R. Wallace)

Regular Agenda

12. Conduct a Public Hearing and Consider Action on M&C # 12-08-10 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 Chicken a.k.a. Bush's Fried Chicken, located at 7137 Bandera Road, Being Lot 7, 20, 30 and 35, Block A, CB 4446A, Linkwood Addition Subdivision. (Second of Two Public Readings) (Ryan/Mike Davis)
A. Presentation by the Leon Valley Economic Development Corporation on the Proposed Project. LVEDC Board President Mike Davis presented the Proposed Project. He summarized the Project as providing for a masonry wall not to exceed \$15,000 to preserve the aesthetics of the neighborhood by providing a sound and light barrier from the new business. He indicated the business is in need of assistance for the reimbursement for funding of a masonry wall. The LVEDC Board approved the Project not to exceed \$15,000.

Councilman Dean asked about the three fence bids. Mayor Riley acknowledged that Ms. Ryan did not have the bids at the time the agenda was finalized but that Ms. Ryan indicated the bids would be provided at the City Council Meeting. The three fence bids/quotes included: Fence Crete, \$17,136; ETech \$17,300; and Pogue Masonry \$13,435. Ms. Ryan noted that Pogue Masonry quoted without a footer or wall paint which would bring their quote in line with the \$17,000 mark.

Council Member Baldrige asked about the value of the originally proposed fencing. Deorald Finney, Bush's Chicken, indicated that originally through the Code, there was no fencing required. He agreed to pay whatever is required over the \$15,000 mark to meet the masonry fence cost. He reiterated that the fencing being provided came through the SUP process at the request of the neighbors.

B. Open Public Hearing. The Public Hearing was opened at 7:34 p.m. LVEDC Board President Mike Davis announced that the LVEDC Board meeting which was present in quorum was called to order and that the public hearing was opened at 7:34 p.m.

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C. Close Public Hearing. The Public Hearing was closed at 7:34 p.m. LVEDC Board President Mike Davis announced that the LVEDC Board closed its portion of the meeting and public hearing at 7:37 p.m. He announced the LVEDC Board would move to the Conference Room to reconvene their meeting.

D. City Council to Consider Action. Motion by Council Member Nelson and second by Councilman Reyna to approve and authorize the Leon Valley Economic Development Corporation Project Request for Use of 4b Economic Development Sales Taxes up to \$15,000 for a masonry fence for Bush's Chicken. Voting in favor: Garcia, Reyna, Baldrige, Nelson, and Dean. Voting against: None. Mayor Riley announced the motion carried.

Discussion Agenda

13. **Discuss Draft Documentation and Attached Ordinance – a Request to Consider Amending the City of Leon Valley Code of Ordinances: Chapter 1, “General Provisions,” by Creating a New Section, Article 1.11, Titled “City Facilities” to Add Language Authorizing the Public Use of Certain Municipal Facilities; Setting Forth Policies, Rules, Rental Rates, and Reservation and Lease Agreements. (Lambert)** Assistant City Attorney Onion framed the issue as non-profit groups coming before the City Council requesting free use of the City's facilities. For that reason, the discussion has come up many times as to what the City can and cannot approve with regard to the waiver of fees for the Conference and Community Centers. Council is considering a proposed ordinance adopting a policy to give the City Departments, Staff, and Council, guidance as well as the end users of the facilities as to what can be donated and what has to be paid for. The primary overarching statement that the Council needs to be made aware of is the City cannot give free use of public tax-supported facilities under the State Constitution; the City cannot give away public tax dollars.

Therefore, the City is in a position of setting forth a multi-tiered policy for official events where the City is hosting the event. Mr. Onion referenced that this was something that has been done in the past and that would be obviously a free use because the City is using its own facilities. City-sponsored events are generally defined as events proposed and accepted by the City Council; City-sponsored events for Leon Valley residents and visitors. The City-sponsored events are where the City has to retain or receives a quid pro quo for the amount of the rental fees for either Center.

The key is developing a policy for designated City-sponsored events which allows City-sponsored event holders to give the City back the same amount of rental money as if somebody from a private organization were going to rent the either center. The City can't give use of the Centers for free; there has to be some demonstrated quid pro quo. A policy needs to be developed which determines how and what the City would accept for a quid pro quo. The policy under consideration is the beginning drafted language only. Mr. Onion concluded his remarks indicating the need for several rates; one for a non-profit rate, a local non-profit rate, and a private entity rate.

Mayor Riley opened the Council discussion asking what constitutes local non-profit groups. Consensus was reached that there would have to be a substantial connection with Leon Valley.

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Then a question arose about whether the quid pro quo could be the equivalent of community service. A query about examples of possible actions demonstrating quid pro quo included cleaning out a creek bed, cleaning out graffiti or volunteering. Also asked is that in the case of considering American Legion Post No. 336, a Leon Valley non-profit with county-wide membership, or other large groups if quid pro quo could include the amount of advertising and spreading news of an event in Leon Valley. Discussion continued about the difficulty with other groups, possibly with a negative image and goals would be interested in using the publicity as quid pro quo to qualify their free use of the City's Centers. A question was raised as to whether the City can restrict quid pro quo to just Leon Valley non-profits.

Mr. Onion suggested a two tiered rate; one for Leon Valley non-profits with a substantial local connection with Leon Valley and one rate for Bexar County non-profit groups. Another question arose as to whether quid pro quo community service would apply and to which non-profit groups it would apply. Mr. Onion suggested having a chart in the final policy if one hour of community service is performed that equals one hour of work for a public work person, there would be a formula equating it using multiples of 10, as an example, one would have to use 30 hours to get an equivalent rate of \$300. He noted that community service is not the only quid pro quo that can be done. He suggested setting forth specifics about what can be recognized for quid pro quo as well as suggesting a timeline.

Council seized on the idea of the timeline being set as well as a number of times per year that a group can come to the Council seeking a waiver like one time per year. A two tiered policy would apply to public service organizations versus private event organizers. If rates for non-profits are set then a distinction needs to be made including those Leon Valley non-profit groups versus those non-profit groups outside Leon Valley. Further explored in using quid pro quo is the additional burden of liability issues arising when groups want to perform what is essentially City work.

There was some discussion about focusing on the community importance of groups which could qualify. Emphasized is that some non-profit community groups perform hands-on work which benefits the City and the importance of their contributions needs to be recognized. The Forest Oaks Garden Club was used as an example, having done landscaping in the community center, the parks, the library, and city hall; with a lot of work being done over the years. Another example cited is the Chamber of Commerce. The Council looked at a list of non-profit organizations based in or connected to the City. It was noted that measuring community service as a form of quid pro quo complicates the situation.

Mr. Onion asked if a provision should be included on a first come, first served basis for the use of the Centers; a private organization or individual wanting to rent the Centers versus a non-profit using it at a discounted rate; the prioritizing of who gets to use the center. Council seemed to favor using the first come, first served basis as a determinant of who gets first use of the Centers.

In an effort to define what might be acceptable forms of quid pro quo, another question was raised. The Assistant City Attorney indicated another example of quid pro quo would be the donation of an artwork that had the same value as the rental. Council indicated that the difficulty comes in determining value and seemed not to favor this kind

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of consideration. Some groups ask if cleaning can be done in lieu of payment which could serve as demonstrating quid pro quo. A consensus was reached of not accepting clean-up as quid pro quo based on the difficulty of having the Centers in a ready state for the next user based on the Centers being cleaned to an acceptable standard which does not include considering the cost of the supplies needed to keep the Centers clean.

Questions were asked about the very small distinction regarding the two provisions in the current policy. Anything that is stated in the policy as a City event, can be reflected as qualifying events for discounted rates with one discounted event per year. Also discussed is that there needs to be some proof of non-profit status although not necessarily 501c3 status needs to be demonstrated; acceptable too, would be groups qualifying as having Texas non-profit status. The determination of non-profit status would be made by the City Manager or his designee if the authority is granted by the City Manager.

Noted was that there need to be a sufficient number of paying customers and limiting the number waived or discounted events to perhaps one per weekday and one per one weekend event for the Leon Valley non-profits with no quid pro quo schedule. Discussion continued about the difficulty of quantifying quid pro quo. It was also brought up that some rental rates are more reasonable in areas outside of Leon Valley. Council Member Nelson indicated she would check on the rates available in other areas. There was some questions raised about the actual rates the City uses, how current the rates in use are, the process used to evaluate the rates, and how competitive the City of Leon Valley's rates are in comparison to other facility rates. It was decided these queries would be best put to the City Manager.

Clarification was sought about what the Council is tasking the staff to bring back. These are the points raised: that no one is getting the use of the Centers for free; that City-sponsored events will be free; and that statements need to be included as to whether or not non-profits get reduced rates in addition to having to demonstrate a quid pro quo. The Assistant City Attorney indicated there would be a tiered rate structure to ensure that the City would be able to recover its expenses for the operation of the Centers. The Council determined that these points and this evening's discussion present a good starting point to further refine what needs to be included in a facility use policy.

14. **Discuss Town Hall Meeting in January 2011. (Mayor Riley)**

Mayor Riley asked the Council to help keep the momentum going. She informed the Council that the Street Maintenance Tax would need to be placed before the voters in again 2011, which would involve a campaign. She referenced the list of strategic goals included in this evening's agenda packet. The purpose of the Town Hall Meeting is to prioritize the City's needs, determine the cost of projects, and develop a plan of action. The Council reached a consensus to have the Town Hall Meeting on Saturday, January 29, 2011, and to conduct the meeting without a facilitator.

15. **City Manager's Report. (Lambert)**

A. Status Update on Progress Towards Filling Vacancy on Leon Valley Economic Development Corporation Board.

Mr. Onion indicated two applications had been received. A third person indicating interest has not completed an application. Mr. Onion noted that City Manager contacted all of the persons left over from a group of prior applicants not selected. The

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Bylaws indicate City Council is entrusted with final approval of LVEDC Board appointments, although silent on who actually interviews the candidates. Council favored having LVEDC interview the applicants. The Council reached a consensus to extend the cutoff for applications to the third Friday in January; January 21, 2011.

16. **Citizens to be Heard.** Al Uvietta, 6923 Sunlight Drive, spoke about the Department of Public Works having experience building trails but that the City of Leon Valley should continue to apply for a trail grant. He sought to clarify that the material for the trail stabilization was not recycled, it was purchased.
17. **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.

18. **Announcements by the Mayor and Council Members.**
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.

Community Events:

12/12/10 – American Legion Breakfast, 7:30 a.m. – 12:00 p.m. Community Center

12/12/10 – Christmas Concert, 2:30 p.m.- Community Center

Mayor Riley congratulated the Friends of the Library for their successful breakfast event. Mayor Riley informed the Council that she, Councilman Garcia, and Councilman Reyna were at the Annual Christmas Tree Lighting event and that it was very successful.

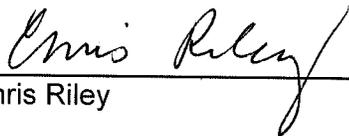
Council Member Baldrige provided a brief history of the Annual Christmas Tree Lighting event over the years as beginning at the Leon Valley City Hall. At the time, a Christmas Tree provided by the Lioness Club.

Councilman Garcia informed the Council about his successful trip to Washington, D.C., to attend the National Association of Latino Elected Officials Boot Camp, a very intensive leadership training opportunity. He had the opportunity to meet a lot of people. Participants had a town hall meeting with congressional representatives, met the Mexican Ambassador, and met Labor Secretary Hilda Solis. He emphasized the kinds of training included staff relations, and proper handling of funds, amongst other topics.

Council Member / Mayor Pro Tem Nelson led the assembly in singing the birthday song to Mayor Riley.

19. **Adjourn.** Motion for adjournment at 8:30 p.m.

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Mayor Chris Riley

ATTEST:



Janie Willman, City Secretary

