



CITY OF LEON VALLEY
CITY COUNCIL SPECIAL MEETING
Leon Valley City Council Chambers
6400 El Verde Road, Leon Valley, TX 78238
Monday, September 18, 2017

MINUTES

1. **6:30 PM** Call to Order and Determine a Quorum is Present.

Attendee Name	Title	Status	Arrived
Chris Riley	Mayor	Present	
Benny Martinez	Mayor Pro Tem	Present	
David Edwards	Council Place 1	Present	
Belinda Ealy	Council Place 2	Present	
Monica Alcocer	Council Place 3	Present	
David Jordan	Council Place 5	Present	

Also in attendance were:

City Manager Kelly Kuenstler, City Secretary Sandra Passailaigue and City Attorney Denise Frederick

2. The City Council shall meet in Executive Session to discuss the following: The City Council shall meet in Executive Session under Texas Government Code §551.074 Personnel Matters to deliberate possible personnel action regarding the Zoning Commission Chairman.

Mayor Riley called for the members of City Council to go into Executive Session at 6:31 p.m.

Council Member Benny Martinez called for a Point of Order saying that since this is a personnel matter, Mr. Olen Yarnell had the right to have this held in open session.

City Attorney Denise Frederick informed all City Council members that that would be legal advice and Mr. Yarnell would need to get that from his attorney and not from the City Council. City Attorney Frederick added that if Mr. Yarnell wants legal advice he would need to get that on his own.

This was followed by a brief discussion.

Mayor Riley asked Mr. Yarnell if it was his wish to have this heard in open session.

City Attorney Frederick told Mayor Riley that was Out of Order and reminded Mayor Riley that she has already convened the Council into Executive Session and if Mr. Yarnell has an objection to that he may make it now.

Mr. Yarnell asked if it was true that he had an option of having an open or closed meeting to which City Attorney Frederick responded that she could not give him legal advice. Mr. Yarnell then asked for an open meeting. City Attorney Frederick informed the City Council that they would now need to either accept or deny Mr. Yarnell's request.

Council Member David Jordan said he would like to speak outside the presence of the dais and outside of the presence of anybody and get legal advice from our attorney just to City Council. Council Member Monica Alcocer said she concurred.

Council Member David Edwards said it sounded like Mr. Yarnell has already asked that the meeting be held in open session. Council Member Benny Martinez said he concurred with that.

City Attorney Frederick repeated that the City Council could either accept or deny Mr. Yarnell's request.

Council Member Alcocer pointed out that Council Member Jordan's request was separate and to convene into Executive Session for legal advice from the attorney, separate and apart from this matter. City Attorney Frederick said they could move into closed session at any time for legal advice.

Council Member Jordan affirmed that this is what he would like to do before there is a vote on this issue.

Council Members David Jordan, Monica Alcocer and Belinda Ealy all concurred that they would like to go into executive session for legal advice before moving forward. Council Members Benny Martinez and David Edwards both said that Mr. Yarnell already asked for open session and that he should be allowed that.

The Mayor stated that since the majority of City Council members (*three (3) in favor and two (2) opposed*) wanted to go into Executive Session under Texas Local Government Code § 551.071 Consultation with Attorney, that would not preclude Mr. Yarnell from having his open session meeting. Mayor Riley asked City Attorney Frederick if that was right.

City Attorney Frederick confirmed that yes, the Council could go into Executive Session at this time for legal advice but as far as Mr. Yarnell's request to have an open meeting, the City Council still has the right to accept or deny the request.

City Council went into Executive Session at 6:38 p.m. under Texas Local Government Code § 551.071 Consultation with Attorney.

The City Council reconvened into open session at 7:37 p.m.

The City Council spoke with Mr. Yarnell regarding his request to discuss this item in open session. Mr. Yarnell asked to clarify that if he is in Executive Session and the first thing he asked is to reconvene into Open Session would that be allowed. City Attorney Frederick replied, yes. Mayor Riley said, I guess so. Mr. Yarnell then asked why it couldn't be in Open Session from the beginning then. Council Member Edwards replied to Mr. Yarnell that they hoped he (Mr. Yarnell) would talk to them a little bit. Mr. Yarnell said ok and that he would follow their request but that he did not want to be in a position where this whole thing is closed and the record is sealed; stating that he will not participate in that and that there has to be open discussion and dialog in the open somewhere; an open record.

Mayor Riley replied that City Attorney Frederick has advised her that if Council goes into Executive Session and Mr. Yarnell asked to convene back into Open Session, then those minutes that she would have been required to write and seal would no longer be relevant.

City Attorney Frederick quickly corrected Mayor Riley and said whatever is discussed in Executive Session prior to that will be sealed because the Council would be in Executive Session. Everything discussed in Executive Session would be in the Mayor's Certified Agenda and if Mr. Yarnell asked to convene into Open Session, Mayor would need to close the Executive Session and reconvene into Open Session.

Mr. Yarnell said and then we would go through the whole process again in Open Session? City Attorney Frederick replied, yes. Mr. Yarnell said, ok I'll agree with that.

The City Council went back into Executive Session at 7:40 p.m. under Texas Local Government Code § 551.074 Personnel Matters to deliberate possible personnel action regarding the Zoning Commission Chairman.

3. Reconvene into Regular Session and take action on issues discussed in Executive Session if necessary.

The City Council reconvened into Open Session at 9:55 p.m.

Mayor Riley said the Chair would like to make a statement that based on the deliberations from the Council, the inquiry into the Pilgrim Cleaners, Linda's Pet Grooming and procurement issues regarding the Zoning chairman is inconclusive and no action will be taken on the personnel matters of the Zoning chairman and we reaffirm the Zoning chairman's position as chair and contribution to our City.

Council Member David Edwards thanked Mr. Yarnell.

A motion was made by Council Member Monica Alcocer and seconded by Council Member Benny Martinez to adjourn.

Mr. Yarnell said “wait a minute” and Mayor Riley said she did tell Mr. Yarnell that if he was unsatisfied with the outcome of the deliberations that he would have an opportunity to have a public hearing.

Council Member Alcocer then withdrew her motion but City Secretary Sandra Passailaigue informed the Council that since there was a motion with a second the Council would still need to vote on the motion. Mayor Riley called for a vote which was unanimously opposed. The motion failed.

Mr. Olen Yarnell stated that it was his understanding that “we would go into Executive Session and then come out into Open Session to have a re-conversation on the issues. I have no desire to put the City of Leon Valley in any jeopardy, but I am not happy with the fact that all of this will become a sealed record because, in my opinion, a huge mountain was created out of nothing and that is an issue as far as I am concerned. That needs to be addressed. If the Council would be obliged to address the issue of this creation from thin air I would agree that we do not have to re-discuss the issue in Open Session.”

City Attorney Frederick advised the Council that this was not something they could discuss or deliberate on at this time. That is not part of the posting on the agenda.

Council Member Edwards told Mr. Yarnell that he believed the Council gave him an undertaking of that effect.

Mr. Yarnell replied that he didn’t “see any advantage of airing our dirty laundry in public but the laundry has to be washed.”

Mayor Riley asked to make a suggestion that she meet with Mr. Yarnell in the near future to discuss the issues and also to clarify his role as the Zoning chair and then come back and put something on an Executive Session if we need to. Mr. Yarnell agreed to this but that he stands by his statement that he is not inclined to display our dirty laundry in public but the laundry has to be washed. This shouldn’t be allowed to happen to anybody in the future and if it does, there would have to be future actions taken by somebody because this just can’t go on because this is very disturbing, it has upset a lot of people.


A motion was made by Council Member Monica Alcocer and seconded by Council Member David Jordan to adjourn at 10:03 p.m.

4. Adjournment

Mayor Riley announced that the meeting adjourned at 10:03 PM.

These minutes approved by the Leon Valley City Council on the 2nd of October, 2017.

APPROVED



CHRIS RILEY
MAYOR

ATTEST: 
SAUNDRA PASSAILAIGUE, TRMC
CITY SECRETARY

