

# The City of Galena Park

## City Commission Meeting

Date: October 21, 2014

A regular meeting of the City Commission of the City of Galena Park was held at City Hall in the Council Chambers, Tuesday evening at 6:00 P.M. on October 21, 2014.

Present were:	Esmeralda Moya	Mayor
	Danny Simms	Commissioner
	Lois Killough	Commissioner
	Maricela Serna	Commissioner
	Juan Flores	Commissioner
	Mayra Gonzales	City Secretary
	Robert Pruett	City Administrator
	Jim DeFoyd	City Attorney
	John Hightower	Special Counsel

Mayor Moya called the meeting to order.

Mayor Moya called on Commissioner Danny Simms for the invocation.

Mayor called for comments from the audience.

Mr. Jack Brown, a citizen, stated that he noticed that the minutes from September 16, 2014 were being approved that night, but was curious as to what happened to the minutes of the special meeting of September 15, 2014. Mr. Brown stated that they had not been approved. Mayra Gonzales, City Secretary, stated that they had not been approved but that they would be approved at the next meeting.

Ms. Taggy Hall, a citizen, stated that she had a concern about the electrical plugs in the pavilion in Galena Manor. Ms. Hall stated that ever since the pavilion was built they have been in need of electrical plugs and had been asking for them. Ms. Hall stated they only had two electrical plugs and they needed eight more. Ms. Hall stated every time she asked Mr. Pruett, City Administrator, he stated that they were on a budget or did not have any money. Mr. Pruett stated that the new budget went into effect on October 1, 2014 and hopefully within the next 30 days they can have some new plugs put in the pavilion. Ms. Hall stated that her next comment was about the luncheon in September in Galena Manor. Ms. Hall stated that Mr. Pruett introduced the new Wastewater/ Water Superintendent Tojuana Cooper, which is very qualified, but her understanding is that was the first time the Mayor had met her. Ms. Hall stated that she thought the Mayor should be involved in the process when someone is hired or fired and the Mayor did not even know that Tojuana was hired. Mr. Pruett stated that it was a personnel matter and something that is handled at the City Administrator level. Mr. Pruett stated that all hiring and firing must meet the approval of the Mayor and Commissioners at an open council meeting. Ms. Hall stated that the Mayor was not included. Mr. Pruett stated that the Mayor and Council approved her at the last council meeting. Mayor Moya stated that what Ms. Hall is saying is that he brought her to the luncheon and introduced her then put her on the agenda and they all voted for her. Ms. Hall asked shouldn't the Mayor be include in all hiring and firing if she is the head. Mr. Pruett stated that the City Administrator is in charge of all personnel and Mayor and Council have the final say in any decision that the City Administrator may make. Mr. Pruett stated that the Mayor and the Council do not normally get involved in the investigative process of a new hire and they confirm that upon their vote. Ms. Hall stated that Mr. Pruett took her over to the luncheon and introduced her and that was the first time the Mayor met

her and she was already hired. Mr. Pruett stated that she was not hired yet she was hired the night of the council meeting. Ms. Hall stated that another thing is that many employees are very afraid of him and losing their jobs and she does not see how they can work under that type of pressure. Mr. Pruett stated that he did not have a comment to perceived perception. Ms. Hall stated that during the civil rights era everybody was afraid to speak or say anything and she just wanted to bring that up to his attention. Ms. Hall stated that she wanted to thank the police department for patrolling in Galena Manor.

Leslie Hernandez stated she is the Galena Park High School FFA President and is there on behalf of the livestock show auction. She would like to extend an invite for everybody to attend the auction they have every year before Thanksgiving. The auction will be held at the GPISD Agricultural facility off of Holland Ave. Ms. Hernandez stated that the students that participate range anywhere from 3<sup>rd</sup> grade to High School Seniors from North Shore and Galena Park. The livestock show will begin on November 18, 2014 at 5:00 p.m., November 19, 2014 at 6:00 p.m., and November 20, 2014 at 11:30. Karina Sanchez, the Vice President, stated that the students have been working very hard to prepare for the livestock show, but have also done other projects to help the community. They have gathered and created food baskets and put together baskets with pet supplies and donated them to the Harris County Department of the Veterinarian Health. They have also participated in the food drives that serve the Galena Park area. They would like to have the communities support at their livestock show auction, and without them they would have not been able to grow like they have the past 12 years. Commissioner Simms stated that for the people that pay GPISD taxes they made in maintenance substantial improvements. They fixed the flooding and electrical problems in the building, they spent about \$300,000 in bond money that the citizens voted for. Commissioner Simms stated that he was in on it, overseeing everything, and they brought the building up to date. They installed new fans for the kids to have on the animals and they corrected the flooding problem. Commissioner Killough stated that they could go in with someone and buy a goat and if they didn't want it they could donate it back and they would give it to the food bank.

Mr. Alberto Rodriguez, a citizen, stated that he lives at 2229 15<sup>th</sup> St. and the city workers had done some work on his street and tore up his driveway. Another concern he had was that the County had left trees and trash behind his home that needed to be cleaned up. Mayor Moya stated that they would look into the problem.

Ms. Elizabeth Silva-Rios, a citizen, had a concern on the Chief of Police videotaping the council meetings. Mr. Pruett stated that there are cameras everywhere in city hall. Ms. Silva-Rios asked if they could get somebody else to video tape the meetings and not do it on the taxpayers' dollars. Ms. Killough stated that they would have to pay somebody else to video tape the meetings. She asked why they couldn't just get someone from the schools to put hours in. Mr. Pruett stated there was people taping all over the place. Commissioner Simms stated to Ms. Silva-Rios that normally the Chief of Police attends the meetings to answer any questions that anybody may have and since he is there he is taping the meetings. Ms. Silva-Rios stated to Commissioner Simms that a Commissioner from Jacinto City told her that he was going around saying that the Mayor was about to get booted out, they had a petition going around and he was talking bad about her. Commissioner Simms stated no he was not and he is not involved in any petitions. He stated that he has been asked a lot of questions at meetings from people that know him and trust him and all he has really stated have been the attacks that have been made to him. Commissioner Simms stated he lived a busy life and he does not have the energy to sign a petition much less start one up. He stated he is trying to adjust to the way the Mayor conducts the meetings. Ms. Silva-Rios stated to Commissioner Serna that she is going around threatening people who signed the petition that you were going to have them deported and that is very wrong. Commissioner Serna stated that it was not true, it was hearsay, and asked if she had proof. Ms. Silva-Rios stated she could have that person go to the meeting. Commissioner Serna stated that she would prove him wrong, because she has not said anything about deportation. Ms. Silva-Rios stated to Commissioner Flores that he is going around staying that the Mayor is only going to be in office one more year and that he will run against her

after that. Ms. Silva-Rios stated that no one was going to vote for him. Commissioner Flores stated that he respects her opinion.

Mr. Dale Wortham, Vice President of the Electricians Union in Harris County, stated that he could find a contractor that would donate the material to the city and he could get his workers that are Galena Park residents to install the plugs over at the Galena Manor Pavilion. Mr. Pruett stated that if Mr. Wortham did that he would waive the permit fee. Mayor asked Ms. Hall to get a list together, because this is the gentleman she was talking about. Mr. Wortham stated to Mr. Pruett for them to get together and coordinate it so they could get it done.

Mr. Broussard, a citizen, asked Mayor Moya if they would be able to comment on an agenda item at the time it is brought up or must they comment then. Mayor Moya stated that they can wait if they like or comment now, this is their meeting.

Item # 4- Consider approving the minutes of Public Hearing on September 16, 2014 and regular meetings of September 16, 2014 and October 7, 2014. Commissioner Killough moved to approve the minutes of public hearing and regular meeting. Commissioner Flores, 2<sup>nd</sup> ...Vote: 5 Ayes... Motion Carried.

Item # 5- Consider ratifying accounts payable from October 3, 2014 through October 17, 2014. Commissioner Killough moved to approve the accounts payables. Commissioner Flores, 2<sup>nd</sup>...Vote: 5 Ayes... Motion Carried.

Mayor Moya stated to Mr. John Hightower that she did not know he was going to be there, she did not see his name on the agenda. Mr. Hightower stated that he was there in regards to agenda item # 13.

Item # 6- Consider approving estimate #1 in the amount of \$13,144.50 and the construction change order form for the Sanitary Sewer Rehabilitation Project. Mayor Moya stated this was before she was Mayor and she is assuming that they had more than one bid. Commissioner Simms moved to approve the change order and estimate #1. Commissioner Killough, 2<sup>nd</sup> ... Vote: 5 Ayes... Motion Carried.

Item # 7- Consider approving the quarterly investment report ending September 30, 2014. Commissioner Killough moved to approve the quarterly investment report. Commissioner Serna, 2<sup>nd</sup>... Vote: 5 Ayes... Motion Carried.

Item # 8- Consider approving the budget amendments for the grant fund- 2014. Commissioner Flores moved to approve the budget amendments for the grant fund 2014. Commissioner Serna, 2<sup>nd</sup>... Vote: 5 Ayes... Motion Carried.

Item # 9- Consider moving the council meeting to the Alvin D. Baggett Community Building on November 4, 2014 due to the November 4<sup>th</sup> Election. Mr. Eric Broussard, a citizen, stated that he wanted to make a comment on this item. Mayor Moya gave him the go ahead. Mr. Broussard stated that the Mayor wanted to move a meeting to the Alvin Baggett Community Building and it was denied because it was against the charter. Mr. Broussard stated it was not according to article 9 of the city charter. Commissioner Simms stated that this is one thing that they would move the meetings to the community building for, they have voting at city hall in the council chambers and therefore they would move the meetings to the community building. Commissioner Simms that it was a designated spot for the County to hold the election. Mr. Broussard asked if that would be the only reason that the meetings could be moved. Commissioner Simms stated it was the only reason besides a fire, construction, or if something happened to the building. Mr. Broussard asked if they recalled the discussion about moving the council meeting. Mayor Moya stated she recalls and asked the city

secretary if she had the minutes available with her. Mr. Broussard stated that a lot of people would like to attend the meetings, but they get so crowded and that is why they don't attend. Mr. Broussard stated that one of the things that the council needs to consider is to change the venue for the meetings. He stated that a lot of citizens want to be a part of the city government and participate, but they do not want to be packed jam tight. Commissioner Killough asked Mr. DeFoyd if it was part of the charter. Mr. Broussard stated that it can be changed and the charter is for the people, if not then show him where it stated it can be changed for one reason but not for another. Commissioner Simms stated that the 12 years he has been on council they have always moved the meeting due to the election being held at city hall. Mr. Broussard stated he just wanted it to be on record that as a city councilman they can place items on the agenda for consideration and he thinks this issue should be brought up at a later date, just for the benefit of the people. Mr. Jack Brown, a citizen, stated that Mr. DeFoyd stated that the meetings could never be changed, but they can be when they want them to be changed. Mr. DeFoyd stated that they could not be changed permanently, but there are times when they would have to change the meetings and one of those times would be the Harris County location. Mr. Brown stated that they requested the meeting to be moved temporarily for one meeting and Mr. DeFoyd denied it. Mr. DeFoyd stated it was not correct. Commissioner Simms asked Mayor Moya if they could pass at that time for them to move the meeting because they will be holding the election there in the council chambers that day. Commissioner Simms moved to approve moving the council meeting to the Baggett building due to a state election being held at city hall in the council chambers. Mr. Brown stated that was his point that they would not let the council meeting be moved to another building whether it was temporary or permanent and there they are saying it can be moved. Mr. Brown stated he has read the charter and the ordinances and he did not see a stipulation that says on special occasions. Mr. Brown stated that he is not against it, what he is against is having it one way one time and another way another time. Commissioner Simms asked Mr. DeFoyd if Harris County sets the voting facilities. Mr. DeFoyd stated that the city agreed to it years ago. Mr. Robert Clowers stated that is one of the things that Mr. DeFoyd and Commissioner Simms told him he was wrong on. Mr. Clowers stated that the Mayor went to him and asked him if they could move a meeting and he told her yes they can move one meeting. Mr. Clowers stated that they have never went by the charter and if they did then the City Administrators position would not exist. Mr. Clowers stated that in the Charter it says that you will have two days to meet and by ordinance it says that the commission will establish the days and the time. Mr. Clowers stated if you read the ordinance you cannot move the meeting out of the building you can only move the time and the date. Mr. Clowers stated they have voted on a Mayor and Council home rule charter not a council and administrator home rule charter, and the charter has been amended without an election for the citizens to vote. Commissioner Simms asked Mr. Clowers if he did not vote on the very same thing they are voting on now when everything was nice and hunky-dory. Mr. Clowers stated that nobody asked him if it was against the charter, they just did it. Commissioner Simms asked Mr. Clowers why did he not bring this up when he was on council and he is doing it now when they have a room full of people, this is something simple and should be voted on no questions asked. Mr. Clowers stated when he told the Mayor that she could move one meeting they voted it down and said they could not do that. Commissioner Killough asked if they were going to vote on moving the date or the location. Ms. Dawn Fisher, a citizen, stated that when it was brought up it was for several meetings if not permanently and you cannot do that it has to be done by a charter election to move it. Mayor Moya stated that they wanted to move it one time due to safety issues and she understands that it has to be voted on in a charter election. Commissioner Simms moved to approve moving the meeting on November 4, 2014 to the Alvin Baggett Community Building due to the election being held at city hall. Commissioner Serna, 2<sup>nd</sup>... Vote: 5 Ayes... Motion Carried. Mr. Brown stated that he was told that the elections were to be held at the community building. Mr. Clowers stated that precinct 81 is normally done at the library and 208 at city hall. Mr. Brown stated that they are moving the council meeting to the community building and the election will be held at the building. Commissioner Simms stated that they use a conference room for the meeting. Commissioner Killough stated that moving the council meeting to another location can be put on

the next agenda and the charter review committee can take it into consideration to move the meetings permanently.

Item # 10- Consider approving the part time employment of Isaac Pinson- Firefighter/EMT. Commissioner Killough moved to approve the part time employment of Isaac Pinson. Commissioner Simms, 2<sup>nd</sup>... Vote: 5 Ayes... Motion Carried.

Item # 11- Consider approving the full time employment of Robyn Reiser as Telecommunications Operator- Police Department. Commissioner Flores moved to approve the full time employment of Robyn Reiser. Commissioner Simms, 2<sup>nd</sup>... Vote: 5 Ayes... Motion Carried.

Item # 12- Discussion and consider any action concerning the rental of the Alvin D. Baggett Community Building. Mr. Robert Clowers stated that he has rented the community building for the last 45 years. Mr. Clowers stated for the first 25 years he had Mr. Robert Hood open and close the building for him, after 25 years of that they just gave him the key. He stated that this year the city administrator has denied him his right to rent the building. He stated that the city administrator stated that he would have to pay the employee to work on a holiday double time and that the city does not rent out the building on a holiday. Mr. Clowers stated that the article that covers that in the city ordinance is article 1.1400- rental of the facilities and 1.1401 explains how you get the fees. Mr. Clowers stated that article 1.1402- contract for the rental use stated that the commission has given the full authority to the parks and recreation director to sign contracts with individuals and the city administrator should have no say. The council does not have the right to deny him the right to the facility. It states in the ordinance that since he lives in the city limits he pays \$65.00 per hour for a minimum of 2 hours and a deposit of \$100.00 and cleaning is \$500.00 and opening and closing fee of \$25.00. The ordinance was adopted in March of 2001 and the first part of the ordinance was adopted in September 1994. It also states that everyone should be charged an addition \$10.00 for all holiday rentals. Mr. Clowers stated that he thinks this is political retaliation. On July 7<sup>th</sup> at the special meeting Ms. Serna accused him of being corrupt and being a thief and followed him out and he had to tell her to leave. He stated Commissioner Serna said he was an old man and he was going to die anyways. Commissioner Serna stated that he was lying. Mr. Pruett asked Mayor Moya if they were going to have a council meeting or a blasting people session. Mr. Pruett stated to Mr. Clowers to keep it civil. Mr. Clowers stated the he was accused of being the good ole boy at the last meeting. Commissioner Serna stated that she remembers the word dying and for the last two previous elections Mr. Clowers went into her office and told her that she had to wait until he died to run, and he even asked her to ask Ms. Rosario Flores not to run because he still had things he wanted to do. Mr. Clowers stated that he had other things to accomplish and never said until he does. Mr. Clowers stated that the commission had no standings to deny him the rental and what they have done is upset his whole family. Mr. Clowers stated that it was all because Mr. Pruett told Kathy that he was not allowed to rent the building. Mr. Pruett stated that in the ordinance Mr. Clowers stated that it is up to the Parks and Recreation Director to decide the rentals and Kathy went to him and told him she did not want Mr. Clowers renting the facility on a holiday. Mr. Pruett stated that they have 11,000 people in the town and the rules apply to everybody. They will bring it before Mayor and Council to vote if they want to rent it out or not. Mr. Clowers stated they could not do that they would have to amend the Ordinance. A citizen stated that it sounds like a personal issue but she wants to know why it did not also include the Churchill building on the agenda. Mr. Pruett stated that Mr. Clowers wanted it on the agenda. Ms. Dawn Fisher, a citizen, stated that if Mr. Clowers has been using the community building for that long then let him use the building. Mr. Pruett said he tried to talk to Mr. Clowers about renting the building and Mr. Clowers stated he didn't want to talk to him. Ms. Fisher stated that they should let him use the building. Commissioner Simms asked Mr. Clowers if he had already made other arrangements. Commissioner Clowers stated he cancelled the event. Mr. Jack Brown stated that the ordinance needs to be rewritten to where the building is not rented on holidays. Mr. DeFoyd stated that you cannot pass an ordinance that is not on the agenda. Mr. Brown stated you cannot do it now, but you can put it on the next agenda. Commissioner Killough stated

she does see a need for the Ordinance to specify that somebody must be at the building. Mr. Brown stated that somebody must be responsible for the building. Mayor Moya stated that sometimes you do have employees that would like to work overtime on the holidays and it would be revenue to the city and money for the employee. Mr. Brown stated that he has seen some of the damage and he thinks that somebody should be at the building during rentals and the ordinance should be amended to not rent the building on national holidays. A citizen stated that Commissioner Killough mentioned something about a charter review committee. Commissioner Killough stated that each one of them chose three people to be on the committee. Mayor Moya stated that she did not because it was illegal and she did not want to participate in something against the charter. The citizen asked who the charter review committee is made up of and why do they need one. Commissioner Killough stated that the city secretary could get him a list. Mr. DeFoyd stated that it is made of people that the commission chose. A citizens stated that he could not hear Mr. DeFoyd for him to not whisper. Mr. DeFoyd stated he was not going to get into a screaming match with the people and that item is nowhere on the agenda. Mayor Moya stated that it was a simple question and Mr. Hightower was also not on the agenda. Mr. DeFoyd stated to Mayor Moya that she does not control her meetings and it is getting out of control. Commissioner Killough stated that she will get with him after the meeting to tell him the criteria. Mayor Moya stated that they basically chose three people that they knew. Commissioner Killough stated that they each had the opportunity to choose three people. Mayor Moya stated that some of them are family, and the charter states that she appoints the committee. Commissioner Killough stated including Mayor Moya. Mayor Moya stated that it is on page 29 of the charter. Commissioner Killough stated it would be an open meeting. Mr. Jack Brown stated that he asked about the minutes of September 15, 2014 minutes that would list the names on the committee. Ms. Gonzales stated that she did not have the minutes ready it was her fault she missed the meeting when preparing the minutes, but it will be on the next agenda and she would provide a list of names for anyone that request one. Commissioner Simms moved to table any action on renting the community building on holidays. Commissioner Serna, 2nd...Vote: Mayor Moya votes Nay on tabling the rental of the community building. Vote: 4 Ayes... Motion Carried.

Item # 13- Discussion and Consider action on the proposed petition, submitted under section 9.004 of the Texas Local Government Code, for amendments to the City Charter. Mr. Eric Broussard stated that he would like to comment on that item. Mr. Broussard stated that there is more to that than just Section 9.004 of the Local Government Code, there are things that come before that and after that. Mr. Broussard stated that section 9.004 is state law. Mr. Broussard stated that the section states that the governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. Mr. Broussard states it says it may, but the next sentence states. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent. Mr. Broussard stated that is where it changed the original has been amended and part of our charter article 8 section 19 of our charter states Amendments: This Charter after its adoption by the qualified voters of the City may be amended in accordance with Article 1170 of the revised Civil Statutes of Texas of 1925. Mr. John Hightower stated that he can save him a lot of time by going over that with him. Mr. Broussard stated that it was a very important thing and the people need.... Mr. Hightower stated that the statue that is in the charter was in affect when the charter was adopted. In 1987 the Texas Legislature went and codified all the laws regarding cities, so the one in the charter is no longer in affect, but the statue that replaced it is very similar if not identical. Mr. Hightower stated that the reference on the agenda, which the Mayor requested that the agenda item be clarified, it is the law today. Mr. Hightower stated that the reference in the charter was repealed in 1987, and was replaced with section 9.004 which is similar if not identical. What that law sets out is how cities amend their charters. Mr. Hightower stated that there are three ways to do it, but it still ultimately has to be voted on by the citizens. The council can do it on their own motion, council can appoint a committee and take their advice or not, which is what the council has chosen to do, and

The third way is the citizens can compel and election by submitting a charter amendment petition, which the citizens have chosen to do and that is the item that is on the agenda. Mr. Hightower stated that there are steps that have to be taken and one of them is for the city secretary to verify the signatures on the petition, which the city secretary has gone through that process. Mr. Hightower stated that it is 5% of the registered voters. Mr. Broussard stated that it is 10% of the registered voters. Mr. Hightower stated again that article was repealed in 1987. Mr. Broussard stated he had done a lot of reading. Mr. Hightower stated that people who wrote the charter make the reference to the law that existed at the time and it was the correct reference. Mr. John Hightower stated that the law has changed and now is section 9.004 of the Local Government Code. Mr. Hightower stated that the city secretary has determined that there is more than 5% of valid signatures. Mr. Hightower stated that they have to either have voter registration number or a date of birth and a signature and she has done that. Mr. Hightower stated that the city secretary certified there was 5% of signatures, in fact it is more like 12% of signatures that were certified. Mr. Hightower stated that she has verified with the county clerk's office the number of registered voters and has made the determination that there are enough signatures. Mr. Hightower stated there had been some issues raised about how the signatures were gathered. Mr. Hightower stated he has no personal knowledge, but it an issue the council has raised. Mr. Hightower stated it is a question as to how the petition was brought in, you don't have to read it but you at least have to be given the opportunity to know what is on it. The charter amendment must be there when you are presenting it, and based on how the petition was turned in , and he does not know the facts, but it appears that the number of people that circulated the petition didn't have it present, and again it appears. Mr. Hightower stated that there appears to only be on copy of the amendment circulated, when there should have been a copy of the proposed amendment attached with each affidavit. If they did fine, if not then there is the question. The council members have the right that if there are any irregularities to decide whether or not it meets the requirements. If council decides that it doesn't meet the requirements then they can go right back out and gather the signatures again. The next election the council can have is in May and the earliest an election can be called is in February. The council can also decide that the petitioners have not crossed their l's or dotted their t's, but they are still going to call the election on their own motion. As they can decide that they need to gather more information to make a decision as to whether the petition is valid or not and that is what he is there to do and explain to them what their options are and what the law is. He stated he is not on anybody side and is there to represent the City of Galena Park and the cities best interest not the councils nor the Mayor's. Mayor Moya stated when he says discussion to consider, she thought that she would see his name on the agenda. Mr. Hightower stated that the opens meeting act only requires the agenda item be on the agenda not people's names. Mayor Moya stated that she was misinformed when she called TML. Mr. Hightower stated he didn't know who she spoke to, but she must have spoken to the wrong person or asked the wrong question. Mr. Broussard stated that the city secretaries' job once the petition is turned in is to certify the signatures and if there were any problems then she should have brought that up before the signatures were certified. Once she certifies it and presents it to council as a certified petition then it is state law that they shall present it for the voters to vote on, it does not say may or maybe, it shall. The citizens have spoken and they have presented a legal petition with more than enough signatures and he was part of it and he did take a copy of the amendments with him. Mr. Hightower asked him if he was one of the people who circulated that petition. Mr. Broussard stated that he was. Mr. Hightower asked maybe he can answer the question when he was getting signatures did he circulate the petition to each person that signed the petition. Mr. Broussard stated he did.

Mr. Hightower asked if he knew why when it was turned into the city secretary there was only one copy of the petition attached to the affidavits. Mr. Broussard stated that it was his understanding that prior to them doing the petition they asked the city secretary if there was a specific format that had to be followed when doing the petition and the city secretary stated the city did not have a specific format. Mr. Hightower stated that was true it was not in the charter. Mr. Broussard stated that state law was the format that they used to do the petition. Mr. Hightower stated that the question is that when each of them when out, did they each have available the petition for the people that were signing and if so why was there only one copy turned in to the city secretary. Mr. Broussard stated that the people who signed it were informed. Mr. Broussard stated that he went out and spend sometimes an hour explaining it to the people what they were there for, it took a lot of time, Mr. Broussard stated. Mr. Hightower explains to Mr. Broussard that the requirements are not to explain the petition the question is did you have the amendments there to look at? Mr. Broussard states that he did and he swears that every member of the community that he worked with had it and also swears to the city council that it was done legally, every signature that was there is a signature that wanted to be there. Mr. Hightower states that when Mr. Broussard was caring around the signatures, he had the amendment with him and was showing them even when they didn't ask to see it. Mr. Broussard answers yes. Mr. Clowers stated that there was a young man that came to his house and he had the amendment and he did not read them but he did scanned through them and signed it, they did have the petition or amendment on the paper he signed. A citizen stated that Mr. Hightower is asking why there was only one, they can't tell what happen to the paper work after it was turned in to the city secretary so we have to ask the city secretary what happen to them. Ms. Gonzales stated that there was only one copy of the petition attached. Ms. Gonzales stated that she had to verify the signatures. Ms. Ponder stated that on the question of how many copies of the amendments she stated that they made over 500 copies, that they made sure that each person that was getting signature had an adequate amount and on the days that they spent sitting outside of Middleton's they also had a stack there for the people that came by, if they wanted to take that with them and read it at their ledger or read it right there it was up to them, it was made available to every signature. Commissioner Simms stated that he never saw the petition, but that there was several people that told him that the petition that they were asked to sign was to lower their water and sewer rates and there was nothing at the top of the signatures that they signed until later on. Mr. Broussard stated that everything was explained to everybody, Commissioner Simms stated that he will let all of those people know. Mr. Broussard stated that he will not lie to get anything and that he would never cheat anybody of anything, Mr. Broussard stated that he is not a lawyer but that he reads and tries to understand the law. Mr. Hightower explains that he is there to give legal advice and no one is accusing anyone, what the question is how the paper was turned in. Mr. Broussard stated that is a good question because they tried to get that information prior to and how the format should be when we turned it in and the information that they got was from the city secretary and it was accepted that way. Ms. Gonzales stated to Mr. Broussard that Ms. Theresa called her and ask her what they do for a referendum so she told her that she would call her back, because she was going to find out exactly what had to be done. Ms. Gonzales stated that she called the secretary of state's office and also spoke to Mr. Defoyd and they both gave her the same answer, there is not a referendum or anything like that in our charter. Ms. Gonzales stated that Ms. Theresa did not want to tell her of a certain petition. Ms. Gonzales stated to Ms. Theresa that if it was a liquor or alcohol election that she could find those forms on the secretary of state website. Mr. Hightower stated that Ms. Gonzales verified the signatures but did not address the issue on how the petition was turned in. Mr. Hightower reads a case that stated that because of the signatures that were collect the council

had its own decision and also stated that it really is the councils responsibility to see if they will look into that or not and it will be up to them, he also stated that Mayra did her best to verify the signatures and there are more than enough signatures to meet the requirements and there is people that stated that whoever was getting signatures did have the amendment with the petition. Ms. Fisher stated that she has a friend that came to her asking about the proposal and he was not offered the petition to look at and he refused to sign anything because he didn't want to sign because he did not know what he was signing for. There are a couple of signatures in there that are some elderly friends of hers and that they did not know what they were signing. Ms. Fisher stated that she is sure Mr. Broussard did his up and up and everything but that he was not the only one passing it out. She also heard that a couple of the people were young people maybe teenagers that were making people sign it. Mr. Broussard stated that he knows the people that did it and there were no kids. Ms. Fisher stated if we get right down to the nitty gritty on this petition, it is her understanding that the Commission will have no vote or no say so in anything that goes on in this city and it will be entirely the Mayor's decision. Mr. Broussard stated that the petition is clarifying the existing charter and this is a home rule charter. Mr. Broussard also stated that the city charter is an old charter and has to be changed, and as of right know they just want to clarify the charter. He stated people have signed the petition for city council to put it in the next election and the people will get a chance to vote on it. Mr. Broussard stated that just because they put it on the ballot does not mean it is going to happen, the people are going to get a chance to vote on it. He stated if you don't like it then you do not have to vote on it, they can have 10,000 signatures on the petition and only 1000 will vote, but it the right of the citizens to vote on it. Ms. Dawn Fisher stated that she understands that people will get a chance to vote, whether you are for it or against it, but the way it reads is that the commission is not going to be able to do anything. Mr. Hightower stated that it is not up to council to say whether they like it or don't like it, but they do have to decide whether it met the legal requirements or not and even if it didn't if they want to put it on the ballot. If the citizens crossed their T's and dotted their I's correctly the citizens are entitled to have an election and the council is obligated to put it on. Mayor Moya stated it's like the council picked their family members to make it a city manager form of government and the people have a right to vote on it. A lot of them may not agree with a city manager form of government, but you will have an option to choose. Ms. Dawn Fisher stated that everyone keeps saying that the city manager's position does not exist in the charter, but the Mayor and Council can create positions by ordinance. Mr. Hightower stated that if the council determines that they did not meet the legal requirements then they still have the option to put it on their own motion and overlook irregularities or they can table the matter to get additional information. He stated the earliest that a city can call an election is February, but you certainly want to know in advance of any irregularities to be corrected. Mr. Broussard stated that if the petition does get rejected for any irregularities that they should have the right before anything happens to the charter, to correct it. Commissioner Killough asked if the petition had to be seen by the secretary of the state. Mr. Hightower stated the process is that the city secretary has to do the review of whether there are enough signatures or not, and Mayra has done that. Mr. Hightower stated that they know more about the questions that were raised than he does, about how the petition was circulated, but they get to decide whether or not it is a problem. Mr. Hightower stated that they do not have to make a decision at that particular meeting, but all of it is subject to be review in court and the courts want to know that you did the fair thing. He stated that the fair thing is that if there are problems with the petition, they need to make a decision about that within time for the petitioners to go out and correct them before the deadline of the election, which is in February. Mayor Moya asked how that was going to work, because the council has a special meeting with their committee to start

amending the charter. Mayor Moya stated that her understanding is if the petition is declined tonight..... Mr. Broussard stated that they could not do that, because the petition was on the table. Mr. Hightower stated that it is not uncommon to have competing amendments, you can have one ballot proposition that for instance converts the city into a city manager form of government and another one that is what is on the petition. Mr. Hightower stated that he thinks the rule is that when you have competing amendments and they both pass, the one with the most votes wins. Mayor Moya asked that when the committee gets together on Thursday, do they get to start amending the charter. Mr. Hightower stated that the committee does not get to preside anything all they can do is make recommendations to the council. Mr. Hightower stated that if the council didn't appoint people they did not trust why they would listen to their advice. Mayor Moya asked why they appointed family members, if that is kind of bias. Commissioner Simms stated none of the people on the committee are his family members. Mayor Moya stated that Ernesto Cantu was related to Commissioner Serna. Commissioner Serna stated that he is a citizen of Galena Park. Mr. Hightower stated that the purpose of the committee is to make recommendations, and if they are going to make recommendations you want a committee that is going to be respected by the council. Mr. Hightower stated that it is his personal opinion, but he thinks it was a mistake for the Mayor not to participate in the process and have her people there, but that is her decision. Mr. Hightower stated that if the Mayor had appointed all the members of the committee what credence does she think the council would give to that. Mayor Moya stated that she did not want to do anything that was against the charter and she was not going to appoint the members, the citizens were going to submit names to her. Mr. Hightower stated that the process is that you have a petition that is out there that is independent of anything the committee does, then you have the committee that do a study and make recommendations to council of changes they think need to be made. City council then gets to decide what changes it wants to submit to the voters. Mr. Hightower stated that if the council decides that the petition meets the requirements they would submit both the proposed amendments from the petition and their own set of amendments and the voters would vote on them. If there are two conflicting amendments the one with the most votes wins. Mayor Moya stated that she wanted Mr. Hightower to show her where in the charter does it state that they each get to appoint three members to be on the committee. Mayor Moya stated that the only thing that she saw in the charter is that the Mayor gets to appoint the members and the council can then agree or disagree with that. Mr. Hightower stated that the charter has a lot of conflicting provisions, it has provisions that say the council appoints, but it also has provisions that says the Mayor appoints. Mr. Hightower stated that the charter has nothing in it about a charter review committee, which is something that cities do voluntarily. That is not something that cities have to do, but it is something commonly done to hear what the citizens have to say. Mr. Hightower stated that section 17 of the charter states the city commission shall also have the power and authority by ordinance to create such boards, commissions, agencies and offices, in addition those specially provided for by this charter. Mr. Hightower stated that according to that they have the authority to create a commission and it says to appoint the members of such boards, commissions, or agencies. Mayor Moya stated that if you go to the next page under title 28 it states that the Mayor gets to appoint all boards, commissions, agencies, and officers provided to the charter. Mayor Moya stated that it still had to go before the council, but the Mayor gets to appoint. Mr. Hightower stated that the charter did have inconsistent provisions. Commissioner Simms asked Mr. Broussard that on the first page of the amendments, his position had been changes to water and sewage, he asked to please keep it at water and sewer.

Ms. Dawn Fisher stated that it is only fair that the people elected the Mayor and Council and they should each get to appoint a certain amount of people. Ms. Fisher stated that if you leave it up to the citizens to do it, all they do is just bicker. Ms. Dawn Fisher stated that Mr. Cantu is one of the most respected Hispanics in Galena Park and he would be one of the first ones she would pick. Ms. Fisher also stated that everyone keeps talking about how scared they are of Robert Pruett and she wants to know why, she is not scared of him. Mr. Robert Clowers stated that he was on the council in 1979 when Baggett chose 15 people to be on the committee and they voted to approve the 15 members that were well know citizens. Commissioner Simms stated that if Mayor Moya brought 15 people in that she recommended for that they would be there probably two years to the next city election agreeing on all the 15 people. Commissioner Simms stated that by each of them appointing people that they trust including the people that the Mayor would appoint, and Mr. Clowers would probably be on that list.... Commissioner Simms stated that Mayor Baggett appointed all 15 people, they all agreed, but they cannot get through something as simple as saying they are going to hold a county election in the council room that they have done for 40 years. Mr. Clowers stated that argument was not the location of where the election would be held, the argument was how can you decide to move a meeting one time but not another. Mr. Clowers stated that if you read the charter and the ordinances, you cannot move the meetings from the council chambers. Mr. Broussard asked that Mr. Hightower stated that one of the council's options was to disapprove and not allow it maybe because of some irregularities that they may have heard or perceived, wouldn't it go straight to litigation after that point. Mr. Hightower stated that if the council determines that the petition is inadequate, then the petitioners have the option of challenging that determination. Mr. Hightower stated that there had been a lot of lawsuits filed over efficiency. Mr. Broussard stated that there is always going to be a side that says something was not done right, but it does not have to be decided there it will be decided by the courts and his suggestion is to just let it go and let the people vote on it. Mr. Hightower stated that if the council was to decide that the petition is inadequate, they had more that 12 % of the signatures needed in a short period of time, they should just go and fix the problem that would certainly be better for everybody than a lawsuit. Mr. Hightower stated that they are right that the council's decision is not the final decision, because it is subject to the courts. Mr. Clowers asked who was going to determine if there were any irregularities. Mr. Hightower stated it was up to the council where to go from here and whether additional information is needed. Mr. Hightower stated that they had two circulators at the meeting out of 8 or 10 that state they did circulate the petition. He stated that council can decide to request more information and table the petition for the night and direct someone to investigate further. Ms. Ponder, a citizen, asked that when Mr. Hightower stated that they did not attach a petition to each affidavit, why they would have to go and get all the signatures again and not just be able to at attach petitions to affidavits with signatures. Mr. Hightower stated that there might be another way to fix the problem, but it is not his decision whether there is a problem or not. Mr. Hightower stated that if there is in fact evidence that the some of the people that circulated the petition did not have the amendments within view then that might be a problem, it would justify council saying that the petition did not meet the requirements. Mr. Hightower stated that if that was the problem you cannot change that by correcting the paperwork that would mean that the voters that signed those petitions would have no reason to believe what they were signing. Mr. Hightower stated that they do not have to read the petition, but it does have to be in your hands and available for them to read. A citizen asked that how many people in the room were asked to be on the charter review committee. She stated that the citizens there were concerned citizens and she just wanted to know what percentage of those citizens

were on the committee. Mr. Hightower stated that the affidavits that were signed say that the petitions were attached, but when it was turned in it was not physically attached. Only one petition was turned in with all the ten affidavits. Mr. Broussard stated that they tried to do it as legal as possible and they assumed that it was legal. Mr. Broussard stated that they thought that if they put a total number of signatures and they all swore in front of two notaries that the petition was legal. Mr. Hightower stated they had two people there at the meeting that stated they circulated the petition. Mr. Broussard stated that he trusted the other eight. Commissioner Serna stated that someone that was asked to sign the petition works at Galena Park High School and they were asked by Steve Silva to sign the petition and he is not one of the 10 people who circulated it. Commissioner Serna asked Ms. Elizabeth Rios if she was a Silva. Ms. Rios stated Silva-Rios. Commissioner Serna stated that her affidavit was notarized by a family member which means none of those signatures are good. Commissioner Serna stated that your signature cannot be notarized by a family member. Commissioner Serna stated that when she was calling people to find out about the petition, she just wanted to know what they were being told. The answer she got was that they were being told about the water bill and then trying to get rid of them. Mayor Moya stated to Commissioner Serna that she has people going to city hall and asking the Mayor to talk to Commissioner Serna because she is threatening them to deport them. Commissioner Serna stated that she is not immigration, and how can she deport someone. Commissioner Simms asked Mayor Moya if they can table that item for further investigation. Commissioner Serna, 2<sup>nd</sup> Vote.... Mr. Jack Brown, a citizen, asked that if Mr. Hightower was saying that they needed to have the petitions available and by them not having them available is he saying that they do not exist. Mr. Hightower stated that nobody knows what went on in the street except for the petitioners, but all they have to go by is what was turned in. Mr. Hightower stated that if there are 10 sets of signatures and one would think that if the petition was actually attached that you would also have 10 sets of petitions with the sets of signatures that is what raised the question. Mr. Hightower stated that Mayra's affidavit about the signatures stated that she did not look at those issues, because that is not her job. Mr. Hightower stated that it is up to council to decide that question. Mr. Brown asked if it is required to attach it to the petition. Mr. Hightower stated that it is required that the petition be available to be reviewed by the person who is signing. Mr. Brown stated so they do not have to be attached. Mr. Hightower stated that the affidavits the people turned in stated that the petition was attached, you have 10 different people that say the petition was attached, but there was only one petition attached. Mr. Broussard stated that was petty. Mr. Hightower stated that he can say that, but you can also say that it is petty to require someone to be a registered voter, but that is a legal requirement. Mr. Hightower stated that it was for a good reason, because someone can take around a blank piece of paper and have people sign it, then make up your amendments after the fact. Mr. Broussard stated that no one intended to do anything illegal and improper with the petition, they did everything above the table and they shouldn't have to deal with the petition being attached to each page. Mr. Brown asked is what is in question is that the affidavit with the signatures did not have the petition attached. Mr. Hightower stated that what raised the question is that each one of the sets that was gathered by the signature makers has an affidavit that says that the amendments were attached. You can attach one set of amendments to ten different sets of signature pages. Assuming that it was done right, what should have been done is a set of amendments should have been attached to each signature page set and there should have been 10 sets. Mr. Hightower stated that was for council to decide not for him. Mr. Brown asked if he had given council any advice on it. Mr. Hightower stated that the only advice he has given council is the only thing that they have heard him say to them.

Commissioner Killough stated that her concern is that people were saying it was a petition to lower their water bill. Mr. Broussard stated that when they were passing the petition around a lot of people talked to them about their concerns and problems, and one of the issues was the water bill. Mr. Broussard stated that he did tell them that he would do anything he can to help them at a later date, but that is not what they are talking about. Mr. Broussard stated that the people who did the petition with him are all upstanding people and they wouldn't lie, cheat, or promise anybody anything that they couldn't perform. Mr. Broussard stated that he wants to make sure that their intentions are clear and they will do whatever they have to do to make sure they know that. Mr. Hightower stated that the petition does have to be published. Mr. Broussard stated that he understood and would help publish it if needed. Ms. Taggy Hall, a citizen, stated that her understanding of the charter is that the commissioners run the city. Commissioner Killough stated that they all do including the Mayor. Mr. Hightower stated that the Mayor is a part of the commission. Ms. Hall stated that the commissioners vote the Mayor down in everything she does and she does not have a say. Mr. Hightower stated that the Mayor does have a vote and she has the power to veto. Ms. Hall stated that as long as they don't work together the city will never grow. A citizen asked Mr. Hightower who he was there to represent and who was paying him and why if we had an attorney already. Mr. Hightower stated that he was there to represent the city and the city was paying him. He stated that he has specialized in his work for 35 years and he is an expert on those subjects and has worked on issues like that. A citizen stated that the town has not changed very much since he was five years old. Commissioner Killough stated that it has changed a lot and it can be better. Commissioner Simms stated that he would like to table it to further investigate, it may very well be on the ballot along with the amendments the charter review committee have. Commissioner Simms stated it was to make sure everything was done right and proper and to eliminate the discrepancies that people may have, he was told by some people that they thought they were signing to lower their water rates. Mr. Broussard asked what if the petitioners went to them and swore that they did not tell anybody that it was for water or whatever they might have thought. Mr. Broussard asked if they can give them a date that they are bringing the petition back. Commissioner Simms stated however long it takes to do the investigation. Mr. Hightower stated that this is subject to review by the courts and his advice is that they want to do what is fair and the fair thing to do is make a fairly quick decision so that the petitioners have enough time to go out and correct it if you determine there is a problem. Mr. Hightower stated if they play some game, and obviously you are not going to do that, and wait until March to make a decision when it is too late for them to make the election, and it is reviewed by court they are not going to be too happy. If you do decide that there is a problem and you give them adequate time to correct the problem then the courts will not be too critical on it. Mayor Moya asked what would happen if they do play a game. Mr. Hightower stated if the city is not being fair then the court will order an election. Mr. Broussard stated that it has happened to Mr. DeFoyd before where the state ruled that a recall election happen in 2011. Mr. Hightower stated that it can go both ways where they rule against the election. Mr. Hightower stated that the court wants you to do what is fair and not play games and understand the courts will air in favor of the citizen's right to an election. Mr. Clowers asked if they come back with the signatures and the petition in two weeks then what happens. Mayor Moya stated she did not think that they needed to redo the signatures what they needed was the cover page. Mr. Hightower stated that the question that was raised was whether or not the amendments were attached to the signatures. He stated that the petitioners do not have to wait on city council they can start right now getting the signatures again, but it is best to wait for council so that there isn't another irregularity that they did not know about that needs to be fixed. Mr. Clowers asked that if the other 8 citizens came forward would that suffice. Mayor Moya

asked how many of the petitioners were there. Commissioner Killough stated all 8 are there. Commissioner Simms asked Mayor Moya if they can call for the motion that he put on the table. Mr. DeFoyd stated that there was a motion on the table. Mayor Moya stated that she is the Mayor and he works for her not the other way around. Mr. DeFoyd stated that she is only one person. Mayor Moya stated that so was he against all the citizens. Mayor Moya asked Mr. Hightower if Mr. Defoyd was in the right by stating she is only one person. Mr. Hightower stated that there was a motion on the floor, but she is the presiding officer. Mayor Moya stated that she noticed on the petition that they had attorneys and asked if they were advised by them. Ms. Ponder stated that everything that was turned into Ms. Mayra was presented to them to make sure that everything was done correctly and that everything was there that they should have and they were satisfied with what was turned in. Mayor Moya stated she just wanted to make sure that they were advised by their attorneys as well and they are all aware of the consequences if the council decides to play games. Mr. Hightower stated that if they decide to play games or if it is turned down they can seek review of that decision. Mayor Moya stated that she was not going to go against the citizens and when they do vote she will veto it and they can override her if they want but she will not go against the citizens. Commissioner Simms asked Mayor Moya if she was going to bring up the motion or was he going to have to do it as Mayor Pro Tem and he is being very fair all he is asking is for the motion. Mayor Moya called for the motion for item # 13- Discussion and Consider action on the proposed petition, submitted under section 9.004 of the Texas Local Government Code, for amendments to the City Charter. Commissioner Simms makes a motion that they table it for further investigation. Commissioner Serna, 2<sup>nd</sup> Vote. Mr. Hightower stated that he would like them to specify what the investigation would be for. Commissioner Simms stated that they would arrange for the city attorney to conduct the investigation and report back at the next council meeting. Mayor Moya stated if it gets done before they can call a special meeting. Mr. DeFoyd stated that it is just to state what the investigation has accomplished, but there is no way that it can be done in two weeks. Mr. DeFoyd stated that the election is not until May and you do not have to do anything until February. Mr. Broussard stated that they just want it done fairly and they ask that it is done as fast as possible, no delays. Ms. Dorothy Harding stated that her understanding is that they would have to take half of the signatures and prove that they were fraudulent for the petition not to go thru. Commissioner Serna stated that her understanding is that if they find one signature in one of the sets of signatures they have to void the whole thing. Mr. Hightower stated that with all due respect he does not think that is the case. Commissioner Serna stated that Judge Risner just went through that and that is what happened. Mr. Hightower stated that the city secretary has already verified the signatures, either by their birthdate or voter registration number, that they are registered voters and that they have the 5% required. If there is question about whether they reviewed the amendments or not that is another matter. Mr. Hightower stated that he does not think that you throw out the whole page just because one signature is not valid. The city secretary stated that 492 signatures were verified out of 614. Vote: 4 ayes.... 1 Nay (Mayor Moya).... Mayor Moya: Veto.... Commissioner Killough made a motion to override the Mayor's Veto. Commissioner Serna, 2<sup>nd</sup> Vote: Commissioner Kilough stated to the Mayor that she can just say Nay she does not need to Veto. Mayor Moya stated that she can Veto and she wants it for the minutes because she is not going against the citizens. Commissioner Killough stated it was parliamentary procedure. Vote: 4 Ayes... 1 Nay (Mayor Moya). Mayor Moya stated that she wished they would stop making comments on the side to her she knows what she is doing.

**Mayor Moya announcements.** Mr. Dale Wortham briefed the council and the citizens on Ebola. He serves as a representative on the board of the East Harris County Hospital Board of Managers. He stated that they are prepared and have protocols that are in place. He passed out copies of pamphlets that share awareness on Ebola.

**Announcements:**

Commissioner Killough announced the Halloween festival at the Community Building on Halloween night. Toys, candy, and prizes will be given away. They will also have a costume contest. She also announced the Rotary Chili Meal fundraiser to support scholarships for the Galena Park kids.

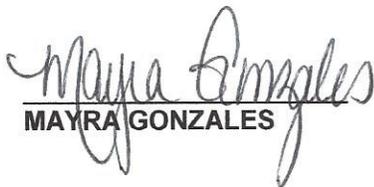
Commissioner Serna announced that Thursday the 23<sup>rd</sup> Galena Park Resource Center will be giving free vaccines from 9-11.

Commissioner Flores announced that the movie night was a success, and they will have another one and if anybody was interested in being involved please let him know. He also stated that when he was running he promised people that he would have a couple of town hall meetings and bring the government over to the respected neighborhoods to make the city better and he will be starting that soon. He stated if anybody wanted to participate to get with him.

Mr. Clowers announced that early voting has started and will finish at the end of the month on the 31<sup>st</sup>. Mayor Moya stated to please go and vote. Election Day is on the 4<sup>th</sup> of November.

Commissioner Simms made a motion to adjourn the meeting. Commissioner Flores, 2nd Vote: 5 Ayes... Motion Carried.

Meeting adjourned: 8:35 P.M.

  
MAYRA GONZALES

  
APPROVED