

Minutes
Regular Council Meeting/Public Hearing
September 20, 2016

On this 20th day of September 2016, at 6:00 p.m., the City Council of the City of Devine convened in a Regular Meeting; the same being opened to the public at their regular meeting place; thereof, at City Hall, 303 S. Teel Drive, Devine, Texas. Notice of said Meeting having been prescribed in Chapter 551, Government Code, and Vernon's Texas Codes, Annotated, and the following members being present:

Mayor William L. Herring
Alderman Hal Lance
Alderwoman Kathy Wilkins
Alderman Steve A. Lopez
Alderman David Valdez
Alderman David Espinosa

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/ City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; Kandy Benavides, Chief of Police; Ismael Carrillo, Director of Public Works; Rob Flores, Superintendent of Public Works; Barbara Moore, Library Director; Raul Garcia, City Engineer; and Ofilia Pedroza, UB Clerk.

Others present: Marly Davis, Devine News; Steven Santana, Medina Valley Times; Phillip Fitch, Chamber of Commerce; C.E. (Curly) Brehm, Devine Airport; Charles West; Juan Davalos; Kari Davis, Sonia J. Lance, David Ehlinger, Vernon Hall and Doug Trott, of Devine, Texas.

Mayor Herring presiding, called the meeting to order. He also delivered the Invocation and led the Pledge of Allegiance.

The first order of business was the Visitor/Citizens Forum.

Mr. C.E. (Curly) Brehm of the Devine Airport came before City Council. Mayor Herring first announced that we had held a meeting with the Devine Airport Advisory Board on September 19th and Mr. Brehm was elected Chairman of the Airport Advisory Board. We discussed the RAMP Grant, resurfacing the runway and we discussed fuel at the airport.

Alderman David Espinosa arrived at 6:05 p.m.

Mr. C.E. (Curly) Brehm addressed Council and requested that he would like for City Attorney Tom Cate and Interim City Administrator/ City Secretary Dora V. Rodriguez to sit at the front with the Airport Advisory Board whenever they have meetings so that they can offer advice to the board as they proceed with city airport business.

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He said this was his only request, and just wanted to bring it to our attention so we can think about it. He said he would really appreciate it.

The second order of business was Recognition.

Mayor Herring recognized School Resource Officer Marcus Alexander, and announced that he will be leaving the City for a position in Bexar County; we are sorry to see him go. Officer Ezekiel Perez is showing interest in the SRO position.

The third order of business was to discuss and consider adopting a Proclamation for October 2016 as Breast Cancer Awareness Month.

Council reviewed Proclamation as Mayor Herring read it aloud.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to adopt the Proclamation for October 2016 as Breast Cancer Awareness Month.

Proclamation attached as Exhibit A.

Ayes	--	Five
Nays	--	None

Motion carried.

The fourth order of business was a Public Hearing on the Proposed Tax Rate for FY 2016-2017.

At 6:07 p.m., Mayor Herring announced that the Public Hearing was open. He said we are proposing a tax rate of \$0.5110/\$100 valuation; that's the same it's been for the last couple of years. Per Mayor Herring, this will not be adopted until next week when we plan to adopt the budget.

No one signed up to speak.

At 6:08 p.m., Mayor Herring closed the Public Hearing.

The fifth order of business was to discuss and consider approval of Minutes: Regular Council Meeting Minutes, August 16, 2016; Special Council Meeting Minutes, August 29, 2016; and Special Council Meeting/Public Hearing Minutes, September 13, 2016.

Council reviewed minutes.

Motion by Alderman Lopez, seconded by Alderman Lance to approve minutes for Regular Council Meeting Minutes, August 16, 2016; Special Council Meeting Minutes, August 29, 2016; and Special Council Meeting/Public Hearing Minutes, September 13, 2016.

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Ayes	--	Five
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider a request made by Butch Cook for a speed bump to be installed on Fullerton Drive.

Mayor Herring announced that there used to be a speed bump there but it was removed when Fullerton Drive was resurfaced, and now Mr. Cook is requesting for the speed bump to be re-installed.

Council held discussion.

City Attorney Tom Cate recommended that we approve this request contingent upon a traffic study by the police department. Director of Public Works Director Ismael Carrillo added that the signs are already up since they only removed the speed bump when they resurfaced the road. He informed Council that the cost for each speed bump is \$110.00 each and we are able to order four at one time; shipping will be \$224.00, so we are looking at a total of \$664.00.

Council held further discussion on previously passing on some of the expense to the customers.

Motion by Alderman Lopez, seconded by Alderman Espinosa to install two speed bumps on Fullerton Drive pending a traffic study by Devine Police Department.

Ayes	--	Five
Nays	--	None

Motion carried.

The seventh order of business was to discuss and consider Annual Report and PILOT Check from the Devine Housing Authority.

Council reviewed Annual Report and Payment In Lieu of Taxes (PILOT) for an amount of \$3,150.00. Mayor Herring read letter received from Aileen Montgomery, Executive Director of Devine Housing Authority.

Motion by Alderman Espinosa, seconded by Alderman Valdez to approve the Annual Report and accept the PILOT Check for \$3,150.00 from Devine Housing Authority.

Ayes	--	Five
Nays	--	None

Motion carried.

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The eighth order of business was to discuss and consider for Council to hold a meeting with the Public on amending the Animal Control Ordinance and to set the date and time.

Chief Benavides addressed Council. She informed them that Michael Oberdick, Animal Control Officer, has some changes that he would like to make to the ordinance, and City Administration felt it would be a good idea to hold a public meeting giving the citizens an opportunity to come and discuss some of their concerns before we amend the animal ordinance. Interim City Administrator/ City Secretary Dora V. Rodriguez requested that we not schedule a meeting date yet until after the Budget is adopted. Chief Benavides was okay with this. City Attorney Tom Cate commented that we can always post notice of it later.

Mr. Juan Davalos addressed Council; he wanted to know when we will be enforcing the ordinance. He basically expressed his same concerns but wanted to know if any citations have been issued. He said he's been bombarding his Councilwoman, Kathy Wilkins, with pictures every day of animals up against his fence. He stated that he wants something done because he feels that Mr. Dorfmeister does what he wants to do. Discussion was held with Chief Benavides regarding warnings and citations, and Animal Control being short-handed. She stated that until our new Animal Control Officer is fully trained, then we can be available more hours. Chief Benavides said she understands it's still a problem and said she will stay on top of it.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to approve a meeting with the public on amending the Animal Control Ordinance with a date to be determined later.

Ayes	--	Five
Nays	--	None

Motion carried.

The ninth order of business was to discuss and consider request submitted by Devine Chamber of Commerce for the November 5, 2016 Fall Festival:

- a. Using the Community Center on November 3 through November 6, 2016.

Motion by Alderman Valdez, seconded by Alderman Espinosa to approve using the Community Center on November 3 through November 6, 2016.

Ayes	--	Five
Nays	--	None

Motion carried.

- b. Needing additional electricity and water to be turned on starting Thursday, November 3 through Sunday, November 6, 2016.

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Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that Direct Energy will not provide service for anything less than three months anymore, so the service will be on for three months, and we're looking at a cost of \$60 for the three month period.

Motion by Alderman Lance, seconded by Alderman Espinosa to approve for additional electricity and water to be turned on starting Thursday, November 3 through Sunday, November 6, 2016.

Ayes	--	Five
Nays	--	None

Motion carried.

- c. Permission to sell alcoholic beverages on November 5, 2016 along with a letter.

Motion by Alderman Lopez, seconded by Alderman Espinosa to approve permission for the Chamber to sell alcoholic beverages on November 5, 2016, with the understanding that they send a letter to TABC.

Ayes	--	Five
Nays	--	None

Motion carried.

- d. Permission for the Devine Police Department to do a letter to TxDOT letting them know of all the street closures and that our Police Department will be responsible for traffic control.

Motion by Alderwoman Wilkins, seconded by Alderman Valdez to approve permission for the Devine Police Department to do a letter to TxDOT letting them know of all the street closures and that our Police Department will be responsible for traffic control.

Ayes	--	Five
Nays	--	None

Motion carried.

- e. Requesting a Noise Variance for November 5, 2016.

Mayor Herring informed Council that everything will shut down by midnight.

Motion by Alderman Lance, seconded by Alderwoman Wilkins to approve Request for a Noise Variance for November 5, 2016.

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Ayes	--	Five
Nays	--	None

Motion carried.

f. Requesting \$10,000 from the City.

Mayor Herring informed Council that we gave them \$10,000 two years ago but last year we gave them \$7,000. He said that this money comes from the hotel/motel tax; it is in our new budget but they can't get it until after October 1, 2016. Mr. Phillip Fitch was okay with this.

Motion by Alderman Espinosa, seconded by Alderman Lopez to approve giving the Chamber \$10,000 from the City's hotel/motel tax fund, and to do a transfer from General Fund.

Ayes	--	Five
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider request submitted by Kari Davis for the City to correct the water drainage issues and to re-pave Bluebonnet Avenue.

Mayor Herring briefed Council on some background information. He said we re-surfaced Bluebonnet Avenue back in 2008. They came before Council because of drainage issues and requested that Council look at it again because water was going into their property. At that time it was decided to have an engineer look at it and agreed to let somebody else do it. In 2010 when the new Council came on board, they rescinded that, and we stated that we had no objections to fixing the street if it could be fixed; it's just that we wanted our own City Engineer, Mr. Raul Garcia, to be the engineer and firm in charge and our own Public Works street crew to do the work if possible. He said that was the reason we extended that. He explained that since then, City Engineer Raul Garcia has been out there again. Ex-City Administrator Gary Pelech also had at least one engineering firm come down to do the surveying. He said that basically they came to the same conclusion about this.

City Attorney Tom Cate asked Ms. Davis if they are still represented by an attorney. She replied, "No sir," to which City Attorney Tom Cate advised we were good to proceed.

Kari Davis addressed Council and expressed some of the following points, namely:

- She asked Council to reconsider correcting the water damage on the west end of Bluebonnet Avenue which is down their side.
- It was a dirt road before, and when it was paved, she feels there was a lack of preparation of and planning prior to the paving.

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- The water is a bad issue. She is asking for the City to re-grade the street properly and to have City Engineer Raul Garcia really look at it to be able to correct the water drainage issue. She would like the water re-routed to the agricultural side of their property; not towards their home.
- She understood from Mayor Herring that we will need to discuss getting an easement.

Alderman Espinosa commented that a problem does exist and we do need to address it, but we need to tend to some legality issues first, and asked Ms. Davis to give us a chance to discuss it and to meet with City Engineer Raul Garcia so we can come to a solution.

Ms. Davis inquired if the next move would be to call the office to set up a meeting with City Attorney Tom Cate. Mayor Herring said that was correct and added that the meeting would also include City Engineer Raul Garcia and a Councilman. Councilman Espinosa said he would try to be there.

Motion by Alderman Espinosa, seconded by Alderwoman Wilkins to postpone any action on request submitted by Kari Davis for the City to correct water drainage issues and to re-pave Bluebonnet Avenue until further meetings have been conducted to resolve legal and construction issues.

Ayes	--	Five
Nays	--	None

Motion carried.

The eleventh order of business was to discuss and consider drainage issues for Curtis Avenue.

Mayor Herring announced that we are not ready for this yet.

Motion by Alderman Lopez, seconded by Alderman Lance to postpone consideration of drainage issues for Curtis Avenue.

Ayes	--	Five
Nays	--	None

Motion carried.

The twelfth order of business was to discuss and consider approving the Cost for the Retaining Wall for Mockingbird Lane and Libold Drive, and when work is to begin.

Mayor Herring stated that this is regarding drainage issues again, and the approximate cost to do this would be approximately \$11,600.00. Council reviewed maps submitted by City Engineer Raul Garcia for proposed retaining wall as requested by property owner, Mr. Vernon Hall. He stated that

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Mr. Hall lives on the corner of Mockingbird and Libold. Water does not go into Mr. Hall's house but it does go across his yard. Mayor Herring mentioned that we've had berms for a number of years all around his property and across the street. Mayor Herring asked City Engineer Raul Garcia if this wall is necessary or if we can get by with a berm.

City Engineer Raul Garcia addressed Council as he explained and pointed out different cross-sections of a retaining wall approximately 18 inches higher than the edge of the pavement, as requested by the property owner. He stated that at one point, the top of the retaining wall will be six inches from the top of the berm, so this will help some. He explained water does go across the tip of the intersection and there is usually debris after a storm, but he did not see any evidence that it's causing any damage to the house. He added that if we do this retaining wall, his concern is that instead of water going on Mockingbird Lane, it's a possibility that it will go into the houses across the street. Mr. Garcia told Council that at this point and in his opinion, this project is not necessary. That was his recommendation.

Council heard from Mr. Greg Boyd who commented that if the retaining wall goes up, water is going to go to his front yard but there needs to be some type of construction.

Mr. Garcia said he thinks the berm is doing a good job; we may just need to increase the height of the berm.

Mr. Vernon Hall also addressed Council. He stated that every time it rains, the berm washes away and he ends up with sand in his yard because it's made up of sand. He said it's already washed away about a foot. Mayor Herring inquired if there's any way we could add a different material to the berm that would slow the erosion process.

Motion by Alderman Lance, seconded by Alderman Valdez to go with City Engineer Raul Garcia's recommendation to raise and stabilize the berm at the corner of Mockingbird Lane and Libold Drive, using different material.

Ayes	--	Five
Nays	--	None

Motion carried.

The thirteenth order of business was to discuss and consider for the Council to place their vote for the Medina Electric Cooperative, Inc. 2016 Director Election.

Council reviewed the Medina Electric Cooperative, Inc. 2016 Director Election Official Ballot for District No. 1, District No. 2 and District No. 3 (with Districts 1 and 3 having unopposed candidates). Brief discussion was held by Council.

Motion by Alderwoman Wilkins, seconded by Alderman Lance to vote for Glenn Roy Schweers, Sr. for District No. 1.

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Ayes	--	Five
Nays	--	None

Motion carried.

Motion by Alderman Lopez, seconded by Alderman Espinosa to vote for David R. Petty for District No. 2.

Ayes	--	Five
Nays	--	None

Motion carried.

Motion by Alderman Espinosa, seconded by Alderman Valdez to vote for Annette Wied Sorrells for District No. 3.

Ayes	--	Five
Nays	--	None

Motion carried.

The fourteenth order of business was to discuss and consider adopting an Ordinance adopting fees for tampering with a water meter and providing for an effective date.

City Attorney Tom Cate explained that the City has been having problems with people tampering with their water meters when being cutoff due to nonpayment; locks are being cut off, and people are even attaching water hoses to meters to run water to residences. He said it's been a problem in proving who is doing this, and this ordinance puts the burden on the customer. If we find that their meter has been tampered with, we are going to assess a civil penalty of \$200.00 plus all of the costs associated with repairing the meter, before we turn the services back on. He explained that if there is a dispute, this ordinance allows the customer can come in and appeal the decision of the Public Works Director and come in and speak with the Interim City Administrator/City Secretary if, for example, Public Works Director Ismael Carrillo removed a meter.

Interim City Administrator/City Secretary Dora V. Rodriguez mentioned that right now we are looking at a cost of approximately \$1300.00 when someone has tampered with our meters. She also mentioned that when customers come in to connect services, we should have a contract for them to sign, and since we currently don't, this ordinance will help us. She asked Tom how this ordinance will affect those who have already paid their deposits. According to City Attorney Tom Cate, this is going to affect them too.

Director of Public Works Ismael Carrillo addressed Council and explained that the problem is that customers are breaking the registers on the meter to where it doesn't register a read, and for us to replace that register (for a standard 3/4 meter), it costs \$174.00; for a 2 inch register, it costs \$192 to

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replace the register. These are electronic-read meters so the cost is higher. He explained that currently we are not passing that cost on to the customer; the City is eating up that cost, and we average around five to eight per year.

Interim City Administrator/City Secretary Dora V. Rodriguez explained that we tried in the past sending out invoices but then they come back saying that they didn't do it. She explained that this is when she asked City Attorney Tom Cate to help. She said that since we don't have a contract, this is why he is saying we need this ordinance. The ordinance will be published in the newspaper City Attorney Tom Cate suggested we can also include something with our utility bills.

Motion by Alderman Espinosa, seconded by Alderman Lopez to adopt Ordinance 9-16 adopting fees for tampering with a water meter and taking effect immediately upon its passage, approval and official publication as provided by law.

Ordinance attached as Exhibit B.

Ayes	--	Five
Nays	--	None

Motion carried.

The fifteenth order of business was to discuss and consider for the City to renew the ASR Lease Agreement with the Edwards Aquifer under the EAHCP Aquifer Storage and Recovery for the 300 acre feet.

Director of Public Works, Ismael Carrillo, informed Council that right now the pumps are doing well and he recommended that we renew the lease.

Motion by Alderman Lance, seconded by Alderman Valdez to renew the ASR Lease Agreement with the Edwards Aquifer under the EAHCP Aquifer Storage and Recovery for the 300 acre feet.

ASR Lease Agreement attached as Exhibit C.

Ayes	--	Five
Nays	--	None

Motion carried.

The sixteenth order of business was to discuss and consider for Council to approve the 2017 Routine Airport Maintenance Program (RAMP) Grant.

Interim City Administrator/City Secretary informed Council that, in the past, this grant just renewed each year, but this time she wanted to bring it before Council so they would be aware of it. It covers things like changing out light bulbs, herbicides, windsocks, taking care of the beacon and runway,

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and it also pays Mr. Larry Cerovski for maintaining our repeater. She said we get reimbursed for half of the costs. Director of Public Works Ismael Carrillo added that his guys still do all the shredding at the airport.

Motion by Alderman Espinosa, seconded by Alderman Lopez to approve the 2017 Routine Airport Maintenance Program (RAMP) Grant.

Ayes	--	Five
Nays	--	None

Motion carried.

The seventeenth order of business was to discuss and consider for the Council to become members of the Go Medina County.

Mayor Herring informed Council he had attended a meeting in Castroville last month and said they are trying to organize a countywide economic development. He said he didn't want any action tonight. He said that every city represented there said they are working on their budgets and cannot join now even if they wanted to. Notices would need to be made about this time next year whether we join. He said we should have a lot of questions about this, "What's in it for Devine?"

Mayor Herring volunteered to have the next meeting in Devine which will be on November 17th at the Devine Community Center from 9 – 11 a.m. He said it's very important if all council members could attend because they will be discussing the dues structure (commencing in January, 2018) which will be \$1.00 per citizen per year, for cities. Based on Devine's 2010 Census, he said that would be \$4,350.00 for us to join. Mayor Herring said this is still in the planning stages and nothing has been set in stone and the forms haven't even been considered yet.

Alderman Lance commented that the County hasn't decided what they're going to put in, but they've already decided we're going to have a head tax on every citizen in every city. Mayor Herring commented that he thought the Commissioner's Court had committed \$25,000.00. And, Alderman Lance added that there's additional taxes to businesses but the biggest amount of money will be coming from the cities. He said he's trying to figure out where all of this money is going. He continued that it's going to be a big meeting and the Community Center will be packed with all the directors scheduled to be there. Mayor Herring agreed that the biggest amount of money will be coming from the cities, and added that this is why it's very important to be there on November 17th.

Motion by Alderman Lance, seconded by Alderman Lopez to postpone consideration for the Council to become members of the Go Medina County organization.

Ayes	--	Five
Nays	--	None

Motion carried.

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The eighteenth order of business was the Budget Workshop.

Interim City Administrator/City Secretary Dora V. Rodriguez went over the Amended Budget with Council, namely:

General Fund

- Net Surplus – We were originally \$211,000 in the negative. She explained that after meeting with all the department heads, and they were able to trim it down a lot and came up with \$98,000 in the negative.
- Capital Outlay – The department heads are requesting \$129,825. Without the capital outlay, we would have an operating surplus of \$31,000, but they are requesting things that they are needing.

Sewer/Water Fund

- Net Cash Flow – Is \$378,399. Interim City Administrator/City Secretary Dora V. Rodriguez added that according to our City Financial Advisor Mary Badillo, we can transfer \$98,000 from the Sewer/Water Fund to the General Fund to make it balance. She said this is something that we have done in the past, but it would be Council's decision to do that next week. She told Council that her recommendation would be to transfer the \$98,000.

Mayor Herring took time to compliment all of the Public Works Department for all that they do. They do a tremendous job, and we are in great shape with Water and financially they do a great job on their budget items. He added that at the same time, we do need to spend some capital outlay money on equipment and vehicles because they are needed.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that City Financial Advisor Mary Badillo went ahead and worked with a 3% COLA along with the Longevity Pay, TMRS and the insurance which was approved by Council. She said the 3% COLA would be across the board for all of the employees.

The nineteenth order of business was Informational Items.

- Banned Books – Library Director Barbara Moore spoke to Council about banned books. She explained that Banned Book Week is a week which has been set aside by the American Library Association. This year, it will be from September 25, 2016 to October 2, 2016. She explained that this allows everyone to treasure and appreciate our freedom to read anything that we want.
- Status on new City Hall/Police Dept. building – Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that Mr. Mark McLiney will be here on September 27th to meet with Council to go over the different steps that need to be taken.
- VFW – Alderman Lopez announced that they are getting ready for the Patriot's Pen and the Voice of Democracy.

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- Alderman Lance announced that he and his wife, Sonia Lance, will be celebrating their 60th wedding anniversary on September 29, 2016. Council congratulated them on their anniversary.

There being no further business to come before the governing body, motion made by Alderman Lance, seconded by Alderman Lopez to adjourn the meeting.

Ayes	--	Five
Nays	--	None

Motion carried.

Mayor

City Secretary