

**Minutes
Regular Meeting
January 20, 2009**

On this 20th day of January, 2009, at 7:00 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 Steve A. Lopez
Alderman John Ramirez
Alderman Frank Cortez, III
Alderman David Espinosa
Alderman Hal Lance
Alderwoman Marina M. Antu

Thus; constituting a quorum.

Personnel present: Dora V. Rodriguez, City Administrator/City Secretary; Ofilia Pedroza, Assistant City Secretary; Nancy Pepper, City Treasurer; Rob Flores, Chief of Police; Billy Grote, Director of Public Works; Ismael Carrillo, Superintendent of Public Works; Barbara Moore, Library Director; and Darrell Rawlings, Code Compliance Officer.

Others present: Sandy Herrera – Devine News; Carlton Groff, Jeffery Groff and Royce Groff – Groff Land Enterprises, L.P., Castroville, Texas; Ed Dougherty – Devine Ministerial Alliance; Jerry Beck, Wanda Gardner, Eva Marquis, Pete Morales, Fred Morales, Israel Avalos, Ely Gonzales, and Charles West, of Devine, Texas.

Mayor Lopez, presiding, declared the meeting opened and welcomed all visitors. Police Chaplain Ed Dougherty delivered the Invocation; Alderman Cortez led the Pledge of Allegiance.

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

Ms. Eva Marquis told City Council she lives at 701 Libold and has lived in the Devine community for 40 years. She told Council she has approached Chief Flores to ask about the cars driving up and down Libold. She said that ever since the road was topped, it makes it very nice for hot-rodders. She told Council that it takes only seconds (not minutes) for these cars to get from Coker to Colonial Parkway; it's getting to be ridiculous. Ms. Marquis told Council that the problem with the first speed limit sign on Libold coming from Coker is that it is up in the trees; it's hard to see in the daytime, much less at night. She said there's another speed limit sign at the other end of Libold at Colonial Parkway, but she's wondering if it would help to have the speed limit zone signs closer together, or if adding more signs would help. She said it's been a long time since police officers have been seen working that road. She asked Council, "If we're short on police officers, do we have the money to hire more?" She pleaded with Council that we need to slow down the traffic; she said the same thing is happening on Teel. She said this is something that we need to look into some more.

Regular Meeting Minutes
January 20, 2009
Page 2

City Council thanked Ms. Marquis for her comments.

The next person to speak under this item was Ms. Wanda Gardner. She addressed City Council about the City logo “Devine, the Name Says it All,” and how it relates to grassroots politics. She mentioned advertising our town with the recent 101 Year Celebration. Ms. Gardner told Council that we have a wonderful town and we need to support it in all ways possible, which means to trade at home and to keep our post office open. She told Council that she may not have to speak on this agenda item if the City makes the move to adopt a resolution that would help keep our post office open on Saturday mornings. Ms. Gardner asked for permission to speak again, if necessary.

The second order of business was to discuss and consider approval of Minutes: Regular Meeting November 18, 2008; Special Meeting November 25, 2008; and Special Meeting December 19, 2008.

City Council reviewed minutes.

Motioned by Alderman Espinosa, seconded by Alderman Lance to approve the minutes for Regular Meeting November 18, 2008; Special Meeting November 25, 2008; and Special Meeting December 19, 2008.

Ayes	--	All
Nays	--	None

Motion carried.

The third order of business was to discuss and consider Trends by Financial Advisor Phil Sagebiel.

Phil Sagebiel addressed City Council and discussed in detail the Financial Trends for the Fiscal Year ending September 30, 2008. Some items that he highlighted were:

- General Fund – Phil told Council that our goal is to exceed break-even by \$25,000.00, and we’re right where he wants to see us.
- Property Tax Assessed Valuation was up by 11%
- We were able to decrease the property tax rate per \$1,000 value to .62, which he said was good.
- Sales tax revenue increased by 6% in 2008 and Phil told Council that he doesn’t foresee a decline.
- Municipal Court Revenue was down in 2008. Phil told City Council this was largely due to the Police Department’s frustration with the court, which is not good.
- General Working Capital – Phil explained that Working Capital is similar to Cash. He showed City Council a graph which showed that back in 2003, the City had a negative \$12,000.00 working capital in the General Fund; we were in a crisis situation as compared to now, we’re at \$600,000.00. He’s often asked what a reasonable number is. He said a reasonable number to him would be 3-6 months of expenses; six months of expenses in the

Regular Meeting Minutes
January 20, 2009
Page 3

General Fund would be around \$1 Million. He said we're at about 3 ½ months worth of expenses, so we are very reasonable and very stable in the General Fund, but we're not excessive. He suggested that we try to keep it at this level.

- General Fund-Required Fund Balance – We have far exceeded the auditor's minimum required goals for the past five years. We've come a long way!
- Water Fund Revenue vs. Operating Expense – He explained that in 2008, we replaced all the water meters, which was a one-time expense to the City. Phil explained that there was still some book value on the books for those meters, so when we replaced them, we took a loss of about \$106,000.00. He explained that this graph is kind of deceiving because it shows revenue at -2% but really water revenue went up by 16%; it was very dry and consumption was up quite a bit. He said Sewer Revenue was up 6% but the problem was that this \$106,000.00 loss hit the books, and also interest income was down because interest rates had dropped so much. Meanwhile expenses were up by 7% which was primarily due to salaries in the Utilities Department. Phil explained that the profit for the water fund was quite a bit less this year, but it's still very reasonable and he doesn't see any big problems.
- Gas Fund Revenue vs. Operating Expenses – He told Council that the City had this smart idea to recalibrate the large commercial gas meters which was a very worthwhile expenditure, and it increased the revenue.
- Water Not Accounted For – It dropped down to 9% this year, which is much better than last year. He said water is becoming like liquid gold (kind of like oil). He told Council we want to be between 5-10%. His advice was to keep working on this and try to get it down to the 5% level.
- Gas Line Loss % - He explained that in the last three years the gas line loss had been very high and we couldn't figure out why. He explained that it was because the large commercial readers were not reading properly. Now that they have been recalibrated, the loss is down to zero this year. He said hopefully we can keep it that way
- Total Working Capital – Phil told Council that this was his favorite graph. He pointed out that the City of Devine, back in 1996 (at its lowest point) had \$47,170.00 in total working capital. Today, we are slightly over \$2 Million; every year it has increased gradually.

Phil Sagebiel told City Council that he is just thrilled and overall is very pleased for the fifth consecutive year with our audit. He said that for the last five years, we've had very conservative budgets. He said it is one thing to have a conservative budget but it's another thing to be able to stick to it. He recommended that we keep doing what we're doing.

Phil mentioned to City Council that we have \$1.3 Million left to spend in the Water & Sewer Bond Money. He said this is a great time to go out for bids on construction projects, even on street maintenance projects. He said, "Go for it!" One thing he recommended that we watch very closely is the sales tax collections because of the recession. He said we're only budgeting at a 2% increase over the prior year, but we don't want to drop.

Phil Sagebiel then commended City Administrator Dora V. Rodriguez and City Accountant Nancy Pepper for their outstanding management and thanked them for another successful year.

Regular Meeting Minutes
January 20, 2009
Page 4

Council thanked Phil for his presentation. Mayor Lopez stated that we had gotten very good participation from our employees.

The fourth order of business was to discuss and consider adopting Resolution supporting the citizens' effort to keep the Post Office open with longer hours on Saturdays.

Mayor Lopez informed the public and City Council that he and City Administrator Dora V. Rodriguez had gone to speak with the Postmaster but they pretty much have their minds set on what they plan to do. Mayor Lopez explained that they then contacted our city attorney, Tom Cate, and we will be coming up with a resolution to help the citizens in support of keeping the post office open on Saturdays.

Alderman Lance commented that he assumed it was a financial decision to shut the window. Mayor Lopez confirmed that is what we were told. He said the postmaster had said they needed to make a cut someplace, and Saturdays is the only time he could cut where it would not interfere with sales during the week.

Ms. Gardner commented that actually the hours should be extended in the afternoons because a working person cannot go to that post office. She inquired who would be getting the resolution. City Attorney Tom Cate said the resolution would be sent to the General Postmaster in Washington, the Postmaster in San Antonio, and to the local Postmaster in Devine, and to elected officials, congressmen, and representatives. Ms. Gardner commented that the Union is involved and there is a lot more to this issue than running a local post office.

Alderman Lance asked for a show of hands on how many people have been to the local post office on Saturdays to buy stamps or mail a package; then he asked how many haven't. There was more show of hands for those who haven't. Alderman Lance stated that the bottom line is that you can't keep spending money and stay in business.

Discussion was held on other surrounding towns that do and don't keep their post offices open on Saturdays.

Motioned by Alderman Espinosa, seconded by Alderman Ramirez to have City Attorney Tom Cate draft a resolution to help the citizens in support of keeping the post office open longer hours on Saturdays.

Ayes	--	Four
Nays	--	One (Alderman Lance)

Motion carried.

The fifth order of business was to discuss and consider request made by Carlton Groff regarding the Tire Storage Ordinance in Devine.

Regular Meeting Minutes
January 20, 2009
Page 5

Carlton Groff addressed City Council. He said his business had received a certified letter on April 22, 2008 pertaining to the storage of outdoor tires in which they were given 10 days to comply with the ordinance. He told Council that he had approached Darrell Rawlings, Code Compliance Officer, for clarification of the ordinance. He said he had no problem with the ordinance. It made good sense to him and they abided to the ordinance in one day. He said he had told Darrell that his problem was going to be enforcing the ordinance. Mr. Groff said that it is obvious there are other businesses in Devine that are not complying with this ordinance. Mr. Groff said he approached Darrell again in July to check on the status and he was told that the City of Devine is taking these businesses to court. He said nothing happened and he, again, checked with Darrell on December 16, 2008 to check on the status. He was told by Darrell that our City Attorney was still working on a draft letter to give to these businesses that do not comply. He told Council that the City's inability to enforce the ordinance in a timely manner is directly affecting the profitability of his business. Mr. Groff told Council his problem is that he cannot understand why it's taken from April 22, 2008 to now and nothing has occurred. He explained that it puts him in a competitive disadvantage because if a consumer goes to his facility, he would not be able to take the used tire because he has nowhere to put it; whereas, his competitors can take the used tire, shove it outside and go against the city ordinance. On the other hand, he is having to turn down business because of our ordinance. He asked, "Why do we sit here today and nobody can do anything about this ordinance?" He said he's complied, his business is hurting, and he doesn't understand. He then asked, "If this gets enforced, where will a consumer be able to take a used tire and be able to dispose of it properly?" Mr. Groff said he had told Darrell that the tires would end up 1) on the side of the road, 2) in an unlocked dumpster, and 3) if the City enforces this ordinance, we're going to run businesses out of Devine to other towns because they will not be able to take the used tire, collect the fee for it, or pass it on to a certified company and have that tire disposed of properly. He said, again, he doesn't understand why this ordinance cannot be enforced.

Council held a lengthy discussion. Alderman Lance's opinion was that it is selective enforcement and too much leniency on the part of the City; we have ordinances and we don't enforce them.

City Council then listened to Darrell Rawlings, who told City Council that he and Mr. Carlton have had numerous conversations and agreed that Mr. Carlton has a valid point. Darrell explained that the whole ordinance came to light as it is part of the International Fire Code, 2003 edition that the City adopted. It states that tire storage piles shall be located at least 50 feet from lot lines and buildings. He said there are few lots in the City that have a place 50 feet from lot lines and buildings to put the tires. He said this is something he had mentioned to the City and to the city attorney because of one tire shop that started generating concerns of fire safety and sanitation issues. He said there was no problem found as far as sanitary concerns but there was this ordinance in the fire code. Darrell further explained that under general nuisance abatement, 10 days are given to abate the problem. He said that generally, when he sends out notices, 10 days are given to comply; however, he gives the citizens the opportunity to contact him to discuss resolving the issue. Darrell told Council we're going to get more conflict from people who don't want to comply if we aren't willing to work with people especially during the difficult times we are going through. Darrell stressed that he's not saying we need to give them forever to work on the matter; he's not saying that we're going to pick and choose. He told Council that if Mr. Groff had not removed the tires, he would be the

Regular Meeting Minutes
January 20, 2009
Page 6

same as the other businesses that still have them. Darrell explained he sent notices to all the tire repair shops in the City of which three complied and two did not. He explained that since then, he and Mr. Groff have had several conversations about how the City is going to enforce this. They've also talked about the problem we have with the illegal dumping issue in the City which needs to be addressed. Darrell told Council that it costs to get rid of trash.

Darrell also mentioned to Council that he drafted a complaint several months ago which he sent to our city attorney to have charges filed in court. Darrell explained that we can send them to court and they can pay their fines, and we can fine them, and fine them, and fine them, and they can leave the property but the tire issue will still be there. Darrell explained that the City does not have a policy to go in and remove the tires. He said if the City wants to pursue it, we need an enforcement avenue to abate the problem.

Darrell confronted City Council with the following:

- Do we need to go to District Court to remove the tires?
- If we draft an ordinance, will the City pick up the tires?
- The fine cannot be more than \$200.00 per day.
- People have left the city in lieu of paying any fines.
- It's not just businesses, it's residential homes too.

Much discussion continued with Council on things such as:

- Is a fine the same as a lien?
- Sending out notices is not going to solve the problem.
- If a business does not comply, can the City shut it down?
- Can tires be looked at as junk?

City Attorney Tom Cate explained to City Council that under the Fire Code we adopted, it doesn't provide for a lien on the property, and the existing ordinance does not allow us to go in there and pick up the tires; we don't have that authority. But, he said, we can adopt an ordinance that, after a 10 day notice, would allow Darrel to go in and remove the tires but then the cost of disposing the tires would fall on the City. He explained that we can pass-through that cost to the business-owner but he doesn't know if we'll ever get paid on it. He said this is why he's thought of District Court in getting an injunction against the storage of the tires. This way, if they don't comply with the injunction, the district judge can bring them back to court. If they don't comply then, she can hold them in contempt, and that will get their attention. Mayor Lopez asked City Attorney Tom Cate if we were to pass an ordinance to pick up the tires and then bill the company for the cost of the tires and if they don't pay within so many days, could the City put a lien on their property. According to City Attorney Tom Cate, we could if it is not a business homestead. Tom explained it would be a two prong approach: 1) we would have to go pick up the tires and 2) we would also file a complaint against them for violating the law to begin with. In the judgment in Municipal Court, we would seek

Regular Meeting Minutes
January 20, 2009
Page 7

a fine and also restitution for our cost for picking those tires up. Once we got that judgment, then if it's not a business homestead, we could apply it to that property.

City Attorney Tom Cate also mentioned that it's not selective enforcement, it's selective compliance. He said the Groff family has complied, and they are to be commended for that.

Discussion was held on contacting a recycling company about bringing in a trailer; however it was noted that that we did bring in a trailer before (for residential only) but we got very little response.

Alderman Cortez told Council that in his opinion, before we change the ordinance, the fine has to be a stiff fine, yet we don't want to run the businesses out of town. It would be a violation per day. Mr. Groff told City Council that if he were in that situation, rather than paying \$200.00 a day, he would call someone to come pick up the tires. Alderman Cortez agreed.

City Attorney Tom Cate spoke of enforcing a lien on the property. City Administrator Dora V. Rodriguez asked Mr. Cate if the only time we could collect on the lien would be when the property sold. According to City Attorney Tom Cate, we could force a sale.

Mr. Jeffery Groff suggested doing an ordinance for a business where they can store an x-amount of tires on business property and allowing them to get rid of the tires in a timely manner, it may work. He explained these companies, however, don't come down for 1-2 tires; they come down to pick up 50 or more which is against the current ordinance, but it may take care of the tires on the side of the road.

City Administrator Dora V. Rodriguez inquired if the fine is bigger when it comes to health and safety. According to City Attorney Tom Cate, it can provide for that; it can be up to \$2,000.00. Council discussed the stiffer the better. Alderman Cortez said he'd like to stick to the \$200.00 per day fine. He said he doesn't feel that it will solve the entire problem but feels it's a step in the right direction for the City. He said we may even have to go back and rent another trailer later on for the citizens of Devine.

City Attorney Tom Cate told City Council that right now all we want to do is file a complaint in Municipal Court, bring them into court and see how that works; and then Darrell can come up with some language, but right now the problem we have is with the businesses.

Motioned by Alderman Espinosa, seconded by Alderwoman Antu to authorize City Attorney Tom Cate to file a complaint tomorrow with a fine of \$200.00 per day on violations, to enforce the current ordinance and to have Darrell work on drafting an amendment to the ordinance to bring back to Council for approval.

Ayes	--	All
Nays	--	None

Motion carried.

Regular Meeting Minutes
January 20, 2009
Page 8

The sixth order of business was to discuss and consider request made by Jerry Beck on the renovations of the Tennis Courts.

Mr. Jerry Beck addressed City Council for support of the renovation at the tennis courts. He presented Council with some drawings to review. City Administrator Dora V. Rodriguez informed Jerry that she could not find a signed agreement on the tennis courts between the city, the county and the school. Jerry said that nobody could find a signed copy. Regardless, Jerry said that David Dougherty, Vice President of the Booster Club, had presented it to the school board last night and they had approved what they are trying to do. He told Council it's not going to cost the school anything. He said the Booster Club will be building the stands, but they want the City to help with the parking area around it. Jerry told Council that he's talked to County Commissioner Kelly Carroll and he's indicated that he will participate in helping with the parking area. Jerry told Council that they've already awarded a bid. He's also already talked to Marshall Davis, with the school. Jerry talked about an electrical line and water main nearby but said they are not in the way.

Council held discussion on getting together with Kelly Carroll to discuss the cost of asphalt; they thought it might be cheaper getting it through the County. Jerry told Council that the cost he is looking at for the renovation of the stands is \$3,853.00, but we don't know the cost of the parking area. Council asked Jerry to meet with Billy Grote, Director of Public Works, so he can measure the area. Jerry mentioned drainage and doing some site work to drain water away from the tennis courts. He told Council that if this is approved tonight, he will call Marvin in the morning and will tell him to start, and he'll get with County Commissioner Kelly Carroll and Billy Grote, Director of Public Works, to start measuring.

Motioned by Alderman Cortez, seconded by Alderman Espinosa to approve request from the Athletic Booster Club to help support the renovation of the parking lot for the tennis courts and to hold a special meeting to discuss the cost of the parking area.

Ayes	--	All
Nays	--	None

Motion carried.

The seventh order of business was to discuss and consider approving subdivision plat submitted by Pete Morales to vacate Morales Acreage, Tract 1 – 4.0191 acres, Tract 2 – 1.5167 acres (Road) and Tract 3 – 4.3666 acres and replat as Morales Acreage Tract 4 – 11.222 acres and Tract 5 – 3.239 acres, which is located on State Hwy. 173 between State Hwy. 173 and County Road 7610.

Mr. Darrell Rawlings addressed City Council and presented them with a Mylar and eight copies of the plat and a memo to review, explaining the Vacate and Re-subdivision Plat. Darrell told City Council that Mr. Morales had first submitted this back in July of 2008. He explained that the Codes Department, the City Engineer, and the Public Works Department had all met with Mr. Pete Morales and Mr. Fred Morales on January 6, 2009, discussing the submitted plans, and there were some issues with the utility service. They decided to split it into the two properties with the layout

Regular Meeting Minutes
January 20, 2009
Page 9

presented to Council. Darrell explained that the property now meets the subdivision ordinance. He said a preliminary plat was dropped off on January 14, 2009, which was then hand-carried to our city engineer, Raul Garcia. He looked at it and did indicate that it met the code, and it looked fine to him. He signed the preliminary plats, and then Mr. Morales was notified that he needed to bring in the final copy. Darrell explained to Council that generally the plats have to have all the signatures of the owners before we sign off on it to make sure all the owners are aware of it and are in agreement with the subdivision plat. Darrell explained Mr. Pete Morales' son was out of town and they've been unable to get his signature on the plat as of yet. Darrell told Council that City Engineer Raul Garcia has approved it, Darrell, himself, has reviewed it, and it does meet our subdivision ordinance. Darrell said that their intent is, if Council agrees to approve the vacated re-plat, to allow the City Secretary, Mayor and City Engineer to sign the plat upon receiving the final signature from the property owner, so it can be recorded in the courthouse. Darrell further explained that this vacate and re-plat was done to add more property to Morales Feed and to Harrison Supply for future expansion.

City Council inquired if they have to wait on the final signature before proceeding. Darrell Rawlings explained that Council can go ahead and approve the plat, but the City signatures will need to wait until all the property owners' signatures are there. He explained that Pete Morales' son is in agreement with it, we just don't have his signature of approval.

According to Darrell Rawlings, each property actually already has utility services, they have adequate road frontage, and all the requirements of the subdivision ordinance have been met.

Council reviewed the plats as Darrell explained the plats. Mr. Fred Morales also approached Council and showed Council the space they need; he explained they need more square footage to store things.

Motion by Alderman Ramirez, seconded by Alderman Espinosa to approve the plat with the stipulation that the City staff not sign it until all property ownership signatures are received.

Ayes	--	All
Nays	--	None

Motion carried.

The eighth order of business was to discuss and consider request made by Ed Dougherty – Financial Assistance for the Skate Park Project.

Mr. Ed Dougherty addressed City Council and refreshed everyone that they've been working for four years now on a skate park project, and they are very close to completion. He said he had two issues:

First, he explained that previous Councils had agreed to help financially, and they are at that point now. He explained they have paid a little over \$19,000.00 for the skate park equipment to be

Regular Meeting Minutes
January 20, 2009
Page 10

manufactured and stored; they have the slab ready to pour, which is \$18,000.00 but they are \$13,000.00 short at this point. He told Council that once they pour the slab and it's cured, they will be ready to get the equipment and get it set up, but they can't do that until they finish paying for it. He told Council that their need right now is for a total of \$13,000.00.

Mr. Dougherty explained that the second need that goes along with that is that he can't pour the slab yet where they want until they know from the City Engineer what we want done with Burnt Boot Creek there on the city property. He explained that Fred Morales has cleared out the land up to the City property. Fred Morales has told Mr. Dougherty that he will do the rest of that work and he will feather out that dirt where they plan to put the slab, when we clear out Burnt Boot on Sayers. Mr. Dougherty told Council he didn't know what the status was on that, and they've been holding off on pouring the slab.

City Administrator Dora V. Rodriguez asked Darrell Rawlings, Codes Compliance Officer, what City Engineer Raul Garcia had said the last time we met to discuss the Burnt Boot Creek Project. She said she remembered that we didn't want to have them stop, and thought Raul Garcia had said everything was okay and that they could go ahead and proceed. Darrell Rawlings responded that Raul Garcia had stated that if he could get us a No-Rise Certificate stating that the work that they are doing would not cause a rise in the base of the elevation that they can continue to work. He knew that Mr. Morales was grading some dirt away, and he said that was fine and they could continue with that work. So, all we need from Raul Garcia is a No-Rise Certificate, and Fred can continue with the Burnt Boot Project on City property.

Mr. Fred Morales told Council that he had gotten permission from the school because that particular part of it belongs to the school. He said Linda McAnnely held a meeting with the school board and they had approved to do it. Fred Morales told Council that as long as Raul is okay with it and they have the school's approval, they want to move some of that dirt out of the creek and put it in the area where the skate park is going to be. So, as long as Raul doesn't have a problem with the changes that he's going to make with the topography, Fred Morales told Council that he thinks it will be fine, but Raul needs to sign off on it. City Administrator Dora V. Rodriguez told Council that Raul needs to give us that certificate; however he was out on vacation and wouldn't be back until Monday.

Ed Dougherty told Council that with that done, things can start moving and they'll be able to start getting the slab poured; he said they already have a contractor for that, and then it's just a matter of getting the rest of the money.

Alderman Cortez inquired of Mr. Dougherty about the total amount he had received for the skate park last year. According to Mr. Dougherty, they received one (1) \$15,000.00 donation toward it and they had raised \$4,000.00 through small fundraisers, so they had a total of \$19,000.00, which they pretty much spent already. He told Council that the reason they spent it when they did was because that's when gas prices were going up to \$4.00 a gallon. They were told that if they would give 50% down, they would build it and lock in the freight costs at a lower rate. According to Ed Dougherty they would be shipping and installing.

Regular Meeting Minutes
January 20, 2009
Page 11

City Administrator Dora V. Rodriguez told Alderman Cortez that she would like to talk to the Council to inform them that she and Nancy had met with Phil Sagebiel, City Financial Advisor, before this evening to find out what the City could afford to be able help them. She informed Council that her understanding was that even though this was a good thing, just because the City is doing good, you don't want to take from your Reserves. Phil suggested that we need to look at the General Fund to see what line item we can take from, and he suggested taking out of the Street Maintenance line item.

City Accountant Nancy Pepper explained to City Council that right now we are budgeted to have an \$82,000.00 loss in the General Fund this year. She explained that when we were doing the budget, Phil had advised us not go close to \$100,000.00 because that means we would be taking away from the \$600,000.00 that we had built up. So, rather than make this an increase to the budget which would increase our deficit, he was suggesting to look at any line item that we could lower by the amount that we plan to contribute (whatever that amount may be). The only line item that he could see that we have budgeted a lot of money for was in Street Maintenance. Ms. Pepper explained that we had budgeted \$120,000.00 for Street Maintenance again this year because we had wanted to work on the streets. So, Phil's recommendation was to pull the money that we plan to contribute to the Ministerial Fellowship Alliance for the Skate Park from the Street Maintenance budget line; this will lower that budget line by whatever amount rather than increase the budget any more.

Council held lengthy discussion amongst each other and with Ed Dougherty on the property still belonging to the City; we never have dedicated it to the Ministerial Fellowship Alliance. City Administrator Dora V. Rodriguez said she remembers the Council saying they didn't mind helping out monetarily but an amount was never mentioned. Ed Dougherty told Council that he had hoped not to have to come back before Council for money because last year he felt he could have gone to private individuals for donations since they are now a 501(c)3 organization, but with the economy being the way it is, that didn't happen.

Alderman Cortez asked Mr. Dougherty that if the City were to help out with \$5,000.00 - \$6,000.00, how he would come up with the rest of the money needed. He said he wasn't sure with the way the economy is right now; however, every bit helps.

Council held more discussion on the amount to donate. City Attorney Tom Cate cautioned Council that they cannot donate; it will have to be a contribution and the City has to get something back from the Alliance.

Motioned by Alderman Espinosa, seconded by Alderman Ramirez to contribute \$5,000.00 out of the Street Maintenance line item for the equipment for the Skate Park in exchange for the Ministerial Fellowship Alliance making the Skate Park available for the use of the youth in our City.

Ayes	--	All
Nays	--	None

Motion carried.

Regular Meeting Minutes
January 20, 2009
Page 12

The ninth order of business was to discuss and consider request made by Mr. Charles West on wanting a street light at Covey Lane & Rossville Road.

Mr. Charles West addressed City Council on the need for a street light in the area of Covey Lane and Rossville Road. He told Council there is too much traffic and there are a lot of people walking that area, and they have trouble seeing; it is way too dark. He said you can't even see the stop sign that's there because it's too dark; also across the street from Live Oak, it's too dark.

He told Council we also need to put another speed limit sign on that road. He said there's one going down Rossville Road towards his house but there's not one coming back down towards Viva Zapata's; they are not abiding by the speed limit there.

Mr. West told Council he is requesting for a street light to be placed facing Covey Lane at Pole # T6767. He said there's a pole by the fire hydrant and the one he's talking about is the next one. He told Council he's not asking for the pole to be relocated; he just wants a street light there so people can see what they are doing.

Council held discussion and reviewed map drawn by Public Works showing the existing poles in the area. Mr. Ismael Carrillo, Public Works Superintendent, informed City Council that the pole which is 19 feet from the corner of Covey Lane and Rossville Road already has three transformers mounted on it, so we can't do anything there. He said that the next pole toward Covey Lane is 47 feet away from the corner, which is the one that Mr. West is talking about. Mr. West told Council that he also had talked to someone from CPL and was also told the same thing; that there is already too much on the first pole that is 19 feet from the corner but it could be done at the next pole, which is the one that is 47 feet from the corner of Covey Lane & Rossville Road.

City Administrator Dora V. Rodriguez informed Council that the procedure, according to AEP, is that there has to be an existing pole to be able to install a street light, which we have. If Council approves, we would need to send a letter requesting the installation of the street light along with a copy of minutes, and that the City understands that we will be responsible for the monthly bill. She told Council that we are currently paying for 267 street lights at approximately \$4,700.00 per month.

Motioned by Alderman Cortez, seconded by Alderwoman Antu to approve Mr. West's request for installation of a street light at pole #T6767 which is located 47 feet from the corner of Covey Lane at Rossville Road with the understanding that the City of Devine will pay the monthly bill.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider the City of Devine Police Department Racial Profiling Statistical Report for 2008.

Regular Meeting Minutes
January 20, 2009
Page 13

Chief Flores told Council that this report just requires their review and approval.

Motioned by Alderman Cortez, seconded by Alderman Espinosa to approve the City of Devine Police Department Racial Profiling Statistical Report for 2008.

Ayes	--	All
Nays	--	None

Motion carried.

The eleventh order of business was to discuss and consider appointing Mary Jane Balderrama to serve as the Chairperson for the 2010 Census Committee.

Mayor Lopez explained that Mary Jane Balderrama will be having surgery and cannot take on this position. There were a couple of others who declined the position, but Ms. Tammy Alanis who is the Chamber of Commerce Secretary has accepted to be the Chairperson.

Motioned by Alderman Espinosa, seconded by Alderman Ramirez to appoint Ms. Tammy Alanis to serve as the Chairperson for the 2010 Census Committee.

Ayes	--	All
Nays	--	None

Motion carried.

Mayor Lopez informed Council that a copy of the minutes will be sent to Ms. Sylvia Martinez, who is the 2010 Census representative for our area.

City Administrator Dora V. Rodriguez explained that once the committee is set, we are looking at having a training workshop on January 29th with Ms. Sylvia Martinez on ways to educate the community on the importance of being counted. She explained that this will be a very time consuming position, which is why the others declined the position after speaking with Ms. Martinez. However, Tammy Alanis did agree to take this on because she already works with the Chamber and already deals with the community. It fits her, and she is willing to take it on. This committee will be trained and educated to make the public aware of how important it is to be counted on the census because this is going to benefit the community in the long run on being able to get grants, funding, etc.

The twelfth order of business was to discuss and consider a letter received by the Texas Water Development Board regarding Community Assistance Visit and Flood Plain Project Status.

Regular Meeting Minutes
January 20, 2009
Page 14

Mr. Darrell Rawlings addressed City Council and informed them that the City of Devine received a Community Assistance Visit (CAV) from the Texas Water Development Board back in August 2008; however, he did not receive their letter until December 9, 2008 addressing our floodplain issues. Darrell told Council that they had basically come down to do floodplain management here in our City. He said the last time we had a certified floodplain manager was when Linda Gunn was with the City, so it's been a few years ago. Darrell explained that he did not know anything about floodplain regulations until he attended a class and received his certification. He told Council that in the recent visit, there were some deficits found in our floodplain management and we had some problem areas.

Council reviewed the letter received from the Texas Water Development Board. Darrell explained that basically maintaining our records of development in the floodplain and enforcing our ordinance are the main issues. It was found that our ordinance does not meet the (NFIP) National Flood Insurance Program's minimum requirements; therefore, our ordinance will need to be amended. Darrell explained that the Texas Water Development Board is asking for something in writing from the City of a plan of action to begin correcting these problems.

Darrell Rawlings informed Council that at the same time, FEMA has given Medina County funding to have the flood maps revised with new topographical data, which he feels the timing is ideal because we'll be starting with new maps. He said floodplain management will be brought up in the newspaper, notices will be published without the maps being changed and will be brought to more people's attention. Darrell said he's already started taking steps to get the office and document/record-keeping in order. He explained that whatever has happened in the past and with the development that's gone through, it's going to be almost impossible for us to go back and force all of these people to have elevation certificates drawn up by surveyors, especially when the forms change every few years.

Darrell told Council that he recommends continuing to get the office established, get our document/record-keeping in order. He has already submitted a floodplain development permit to City Engineer Raul Garcia and to City Attorney Tom Cate for their review. Darrell told Council that the Water Development Board representative, Mr. Razzo, looked at it when he was down, and it was much better than what we had before. Darrell told Council that there is a lot of development that goes on beyond what our building permits are required for. He explained that when you're in the floodplain, any manmade change in real estate is considered a development, and FEMA expects you to keep track of any manmade changes because it could have an impact on flood waters and base flood elevations.

Darrell told Council that right now would be the perfect time for public awareness and public education. He said that as people come in with the new flood maps, and as we attempt to make the public aware, we can educate them on what the regulations are. He said the ordinance will also need to be revised after these new maps are finalized. The City of Devine will have 90 days to adopt the new map and an ordinance that they are going to continue to participate in the flood

insurance program. He said our ordinance will be revised and the State is willing to help us and provide their support on any questions that we may have.

One of the questions that Darrell had in relation to the new flood maps was how the City wants to handle notifying the people that will be in the new flood areas where the map boundaries have changed. Even if it stays the same, he wanted to know how we are going to notify them that they will be impacted. Discussion was held on whether we should post notices at several locations, send letters to everyone affected, or holding a town meeting. According to Darrell, the floodplain is from Windy Knoll to Warhorse to Colonial Parkway. Alderman Lance said he feels the people living in the floodplain need to be contacted, especially because they need to get flood insurance. Darrell explained that right now if they get flood insurance, they can get it at the preferred risk rate, in other words at the rate of not being in the floodplain. He explained that as long as they keep the policy current, even if the property changes ownership, the rate stays locked in at the lower rate. According to Darrell, flood insurance is not covered by Homeowners insurance policies. He said a lot of people mistakenly think that it is. Darrell discussed flood insurance in detail.

Alderman Cortez said he feels we should publish it in the newspaper and have a town meeting; he said it's up to the residents whether they get insurance or not but the City needs to do our part in promoting awareness. Council agreed.

Regarding the Burnt Boot Project, Darrell and City Engineer Raul Garcia met with FEMA. Raul mentioned that he had found some discrepancies in their discharge on how much water would be coming down from the water shed all the way from the start of Burnt Boot Creek in Devine. Raul informed them that his numbers were a lot lower than the numbers on the new map of the new study. Darrell said they found out that the contractors who redid the maps did not do a new study. They took the study that was done in 1976 (our original flood insurance study), they took new topographical data and they took the existing maps and put the old numbers with the new topographical data to make these maps. They literally made a mess; so there was no new study done. Mr. Manuel Razo, the representative from the Texas Water Development Board who came down to do our Community Assistance Visit (CAV), suggested that the City seek a Conditional Letter of Map Revision (CLMR) to present to FEMA what our project is going to entail. He said we need to do it conditionally to get their approval; this will help ensure that they approve the final letter of map revision that is changing. FEMA representative, Mr. Hoff, stated that because the CLMR process can take a long time, he suggested that as long as Raul's study shows that there's no rise in the flood level and is not going to adversely impact it, to go ahead and do our project and then submit a letter of map revision. Darrell told Council that he is working with Raul on getting this data together so the project can move forward.

Darrell informed Council about two grants that we may consider pursuing from the Texas Water Development Board. He explained the grants in detail. Darrell also mentioned another grant with FEMA, and recommended not pursuing the first grant but to instead go with the Federal Emergency Management Agency for FEMA's Flood Mitigation Assistance Program. He

explained that what we want to do is mitigate or eliminate the floodplain from Colonial Parkway to the highway. We want to take all the houses and all the properties along this channel out of the floodplain. He said this is the grant he's trying to pursue. If we can get the ball rolling, we can apply for this grant. Darrell explained the federal government is issuing stimulus checks to the state governments to create jobs and boost the economy; they're looking for jobs and projects that the state and local governments have that are ready to go in 90 days or so. Darrell explained that this will be a large project that will provide for jobs for contractors to come in and do the channelization project. He said we have a chance of getting some good funding to help us cover the cost which will improve our City at no cost to the taxpayers. He will contact ACOG tomorrow and try to find out more about it. Darrell informed Council that up to 75% of the cost can be funded by FEMA under this grant; however, under the stimulus, we may find some additional funding.

City Administrator Dora V. Rodriguez commented that in order to help Darrell wrap this up, it may be helpful for the newspaper to print that Darrell is in need of anyone who may have pictures or information of the flood which we had back in the '70's; anything that could help us. Darrell stated if we can prove that we've been in a hazardous situation before; if we can show there's been damage before and lives put at risk before, it could prove that there's a need for this grant which could help us improve this project to help benefit our city.

Council held brief discussion.

Motioned by Alderwoman Antu, seconded by Alderman Ramirez to authorize Darrell Rawlings to submit a letter to the Texas Water Development Board regarding their Community Assistance Visit (CAV), stating that the City plans to work towards correcting the problem areas indicated in the letter received from the Texas Water Development Board by starting with increasing public awareness, improving the permitting and record keeping process of the City, regulating new development in the Special Flood Hazard Area and that the City intends to update the Flood Damage Prevention Ordinance to meet the minimum NFIP requirements upon the adoption of the new Floodplain Maps, and intends to fully enforce the requirements of this ordinance after its revision; furthermore, the citizens of Devine who will be impacted by the change of the floodplain boundaries shall be notified by publication in the Devine News, posting of notices, and the holding of a town meeting.

Ayes	--	All
Nays	--	None

Motion carried.

City Administrator Dora V. Rodriguez told City Council that this is very hard work, it's not easy and Darrell is doing very well. Council commended Darrell for doing such a good job.

Regular Meeting Minutes
January 20, 2009
Page 17

The thirteenth order of business was to discuss and consider adopting Wireless Internet Use Policy for the Driscoll Public Library.

Library Director Barbara Moore addressed City Council and told them that the Library currently offers wireless internet to their patrons and oftentimes people park after hours (when the Library is closed) in the parking lot to use the wireless internet with their own PC's. Barbara stated that one of the concerns Council had at one time was that they didn't want everybody hanging out in the parking lot, so according to Barbara, they added a password so that they had to come inside the Library, and then they had the password to be able to use the internet. Barbara explained that the password has never been changed which means that they can sit outside for hours (sometimes up to 2:00 or 3:00 a.m.) if they have that password.

Barbara explained that while they currently have an internet policy for the Library, they do not have a policy for the wireless internet. So, Barbara wants her patrons to know that the Library will not be responsible for any passwords that might be stolen, any viruses or anything damaging their computers. Barbara said she's taken several different policies from other libraries and has tried to coordinate this to cover everything. She informed Council that she's had the Library Board review this and they advised to reconsider having a password but, with the issue of the parking lot, to set a timer so that the wireless internet can only be accessed from 7:00 a.m. to 10:00 p.m., which would eliminate people sitting out in the parking lot until 3:00 o'clock in the morning.

Council held discussion on the hours, especially with students using the internet and staying up late. Barbara stated that she does not have a problem with people in the parking lot and said she's had no complaints. Council questioned Chief Flores and he stated that he's had no complaints.

Motioned by Alderman Cortez, seconded by Alderman Espinosa to adopt the Wireless Internet Use Policy for the Driscoll Public Library from 7:00 a.m. to 10:00 p.m.

Ayes	--	All
Nays	--	None

Motion carried.

Before proceeding with the next item, Ms. Eva Marquis asked Council if she could make a comment. She told Council that she wanted to thank them for doing such a good job. She stated that it's been a long time since she's attended a council meeting and she had enjoyed tonight's meeting. She needed to leave but wanted to thank the Council members for serving and for doing a good job.

Council thanked Ms. Marquis and invited her to come back.

The fourteenth order of business was to review the Quarterly Report.

City Accountant Nancy Pepper informed City Council that the return on the investments is very low right now; it's at 1.45%. She told Council that we did open up a CD at the Bank of Texas for \$250,000.00 for 6 months; she's hoping to see some great increases with the interest rate.

City Administrator Dora V. Rodriguez informed Council that in preparation for Phil coming down to report the financial trends, Nancy had a lot to do, which is why there was no financial report to review.

Council reviewed the Investment Report.

The fifteenth order of business was the Reports, namely:

- City Secretary's Report – Council reviewed.
- Treasurer's Report – There was no report.
- Public Works Report – Director of Public Works reported an oil spill this morning at Bill Hope's place, and informed Council that his crew had been able to contain it by pouring sand on it. City Administrator Dora V. Rodriguez informed Council that Darrell had informed TECQ; they stated that we were not liable.
- Police Chief's Report – Chief Flores informed Council that traffic enforcement is fixing to increase; he told Council to expect them to be everywhere.
- Driscoll Public Library – Council reviewed report.
- Chamber of Commerce – Council reviewed.

The sixteenth order of business was Information Items

There was nothing to report under this item.

There being no further business to come before the governing body, motion was made by Alderman Cortez to adjourn the meeting.

Mayor

City Secretary