

**Minutes  
Special Meeting  
February 4, 2010**

On this 4<sup>th</sup> day of February 2010, at 7:00 p.m., the City Council of the City of Devine convened in a Special 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 thereof, being present:

Mayor Jerry Beck  
Alderman John Ramirez  
Alderman Frank Cortez, III  
Alderman David Espinosa  
Alderman Marina Antu

Absent being Alderman Hal Lance; thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Ofilia H. Pedroza, Assistant City Secretary; Nancy Pepper, City Treasurer; Tom Cate, City Attorney; and Billy Grote, Director of Public Works.

Others present: Sandy Herrera, Devine News; and Tony Arce Jr., AEP.

Mayor Jerry Beck, presiding, declared the meeting opened.

The sole order of business was to discuss and consider approving Franchise Contract with AEP.

Council reviewed contract. City Attorney Tom Cate told Council that he was looking for a favored nation clause in the contract which means that if during the term of this franchise agreement, AEP gives another city a better deal than what they are giving the City of Devine, that they would incorporate that into our agreement and automatically update it. He said that even though this was not in the contract, it does contain more acceptable wording in the areas of fixing any streets that they might tear up, and in hauling off the limbs. According to Mr. Cate, AEP also changed the way they figured the franchise fee but he said that was okay because it's set up to state statutes. He said that other than that, it should be satisfactory to Council.

Interim City Administrator Dora V. Rodriguez mentioned that she had previously misunderstood the brush pickup. After talking to Tony Arce yesterday, she understands that they will only be picking up the smaller limbs; the big tree stumps will be picked up but they will need to be placed at a facility provided by the City and it will be up to Public Works to get rid of it. Council carried discussion on this. According to Mr. Tony Arce nothing is scheduled at this point and they are looking at maybe only doing this one time a year. At this point they are trying to pick up everything and using the chipper as much as they can.

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Council held discussion on the number of years on the contract; they think 25 years is too long. According to Tony Arce, most cities have 25-30 year contracts. City Attorney Tom Cate recommended no more than ten years. Tony Arce told Council that it would have to go back to the drawing board; he told Council he would try but not for ten years because he didn't believe there are any cities out there with ten year contracts. He said right now, they continue to honor the franchise payments to the City. He doesn't know of too many service providers that would continue paying the City without a contract. His main purpose is to legalize the financial payments to the City of Devine.

Interim City Administrator Dora V. Rodriguez told Council it was their decision but she would like for it to be over with because we've been trying to do this since 2007.

After further lengthy discussion on the number of years, Council decided on a 15 year contract. So, Tony Arce will take the contract back for review for contract ending year 2022.

Motioned by Alderman Ramirez, seconded by Alderwoman Antu to approve Franchise Contract with AEP on the provision that the contract runs from September 2007 to September 2022.

Ayes	--	Four
Nays	--	None
Absent	--	One (Alderman Lance)

Motion carried.

Discussion was held after the motion that only the first page will need to be changed, if AEP accepts it.

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

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Mayor

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City Secretary