

Minutes
Regular Meeting
February 17, 2009

On this 17th day of February, 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 Hal Lance
Alderwoman Marina M. Antu

Absent being Alderman David Espinosa; 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; Janet Pitman-TWBKY-Auditors, San Antonio; Simon Pena-SRP & Associates, San Antonio; Fran Taylor and James Caldwell-Devine Chamber of Commerce; Freeman & Wilma White, David Cooke, Marlene Wells, Ernestine Londenberg and Carol Doyal, Devine Food Pantry; Rufino Vega-City of Devine; Mickey W. Davis, Sonia J. Lance, Tina Wilburn, Zack Beadle, Rafael Ramirez, Henry Ramirez, Nieves Zapata, Linda Gilmore, Bobbie Parker, Dorothy Reed, Paul R. Reed, Joe Pulido, John P., Robert Nixon, and Raul Palacios all of Devine, Texas.

Mayor Lopez, presiding, declared the meeting opened and welcomed all visitors. Reverend David Cooke delivered the Invocation; Alderman Cortez led the Pledge of Allegiance.

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

No one signed up to speak under this item.

The second order of business was to discuss and consider adopting 2010 Census Partner Proclamation.

City Administrator Dora V. Rodriguez informed Council that our Census representative, Sylvia Martinez, could not be here and went on to explain that this is the first step required to kick off the 2010 Census. She mentioned that we're trying to get a census committee going; however, Tammy Alanis declined the chairman position. She said we've met with the school to try to get a representative to be part of the committee and James Caldwell has offered to help but we still need to continue meeting until we can get the committee

Regular Meeting Minutes
February 17, 2009
Page 2

established. The purpose of the committee will be to make the community aware of the importance of being counted for the 2010 census.

Motioned by Alderman Ramirez, seconded by Alderman Lance to adopt the 2010 Census Partner Proclamation.

Proclamation attached as Exhibit A.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The third order of business was to discuss and consider approval of Minutes: Regular Meeting, January 20, 2009.

City Administrator Dora V. Rodriguez informed Council that these are the only minutes that are ready for Council's approval. She explained that we've had a lot going on and Assistant City Secretary Ofilia Pedroza has not had time to finish all the minutes; however, she was able to complete the Airport Minutes for their review since they were on the agenda. She explained that the minutes will be given to them at a later date.

Council reviewed the minutes.

Motioned by Alderman Ramirez, seconded by Alderman Cortez to approve the minutes for Regular Meeting on January 20, 2009.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The fourth order of business was to discuss and consider Audit Report/Management Letter by the Auditor with CPA of Thompson, Williams, Biediger, Kastor & Young, L.C.

Ms. Janet Pitman addressed City Council on the Audit Report and Management Letter from the auditing firm of Thompson, Williams, Biediger, Kastor & Young. Ms. Pitman guided Council page by page through the Financial Report. In addressing the Independent Auditor's Report, she told Council that their audit was conducted in accordance with auditing standards generally accepted in the United States of America. Those standards require that they perform the audit to obtain reasonable assurance about whether the

Regular Meeting Minutes
February 17, 2009
Page 3

financial statements are free of material misstatement. She went onto explain their auditing procedures.

Ms. Pitman told Council that their unqualified opinion of all financial statements and all governmental activities ending on September 30, 2008 were presented in conformity with the accounting principles generally accepted in the United States of America. She said this is the best report that we can get.

In addressing the Letter on Conduct of the Audit Ending September 30, 2008, she stated that this letter had extended audit procedures, and explained that this year they had done a risk assessment. She stated that the letter does not show any improvements needed because they could not find anything wrong; all the required information was there.

After no questions from Council, Ms. Pitman thanked City Council, City Administrator Dora V. Rodriguez, and City Accountant Nancy Pepper. She said she wanted to also thank all the staff for all their support.

Council then thanked Janet for giving us another good audit.

Motioned by Alderman Cortez, seconded by Alderman Ramirez to approve the Audit Report/Management Letter by the Auditor with CPA of Thompson, Williams, Biediger, Kastor & Young, L.C.

Audit Report attached as Exhibit B; Management Letter attached as Exhibit C.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The fifth order of business was to discuss and consider letter submitted by El Paso on the termination of Gas Sales (Natural Gas) to the City of Devine.

Council reviewed the letter from El Paso. City Administrator Dora V. Rodriguez informed Council that we have until May 1, 2009, and Superintendent of Public Works Ismael Carrillo has already been talking to Mr. Simon Pena about finding other suppliers for the City.

Superintendent of Public Works Ismael Carrillo explained to City Council that the reason given to him by El Paso on why they are terminating our gas sales contract is because it doesn't fit their business motto anymore. He said they are only selling gas to bigger companies, not to smaller towns. City Administrator Dora V. Rodriguez stated that El Paso also sent a letter to the City of Lytle and City of Castroville.

Regular Meeting Minutes
February 17, 2009
Page 4

City Attorney Tom Cate did some research on going out for proposals. He told Council that there are two areas in which we can decide on not to go out for proposals. He told Council he's not saying that would be the best route to take, but under Health and Safety, the City is exempt from going out for proposals. He said there is also a provision in the local statutes that allows the City not to bid on products that we resell at retail. He advised Council that these are the two areas that would allow the City to be exempt from going out for proposals. City Administrator Dora V. Rodriguez stated that if Council wants, we can still go out for proposals but her understanding is that we don't have to meet certain criteria, such as the requirement for publishing the proposal. City Attorney Tom Cate confirmed that this was correct; we can still do it if we want.

City Administrator Dora V. Rodriguez told Council that this was for information only but we may need to hold a special meeting later to go out for proposals. She said once all this is done, we'll bring it back to Council so it can be decided on which supplier to go with. Council agreed.

The sixth order of business was to discuss and consider hiring Simon Pena as our Consultant to help with the Proposal for Purchasing Natural Gas.

Mr. Simon Pena addressed City Council and told them that he is a gas consultant for a number of municipalities that purchase natural gas. He said he's mostly a regulatory consultant; he deals with the operations of gas utilities. He told Council that he knows a lot about gas supply and some of the issues that the city is dealing with such as the natural gas supply issues and also the pipelines. Simon also told Council that he's done some work for Ismael; he did the Operations & Maintenance (O & M) Plan to help us meet all the regulatory requirements. Mr. Pena told Council that he would be glad to serve the City of Devine and would be glad to answer any questions.

Council inquired about cost since they were given information of Simon's fees being \$90-95 per hour. City Administrator Dora V. Rodriguez asked Simon if we were to call on him on one of the days that he comes to Lytle, if he would take that into consideration. Mr. Pena stated that he would work with us and said that he's very fair & straightforward with the billable hours for his clients. He explained the process for the gas market. He said that first he would need to find out the marketers that are actually moving gas on Enterprise's pipeline system and whoever is authorized to transport gas. He said these are the ones he would need to contact right away to see if they would be interested in delivering. Mr. Pena told Council that Superintendent of Public Works Ismael Carrillo got him the volumes for the last two years, so he plans to issue emails to these companies and ask them if they are willing to participate. He explained this could take anywhere from a few hours to less than a week (for his time). Alderman Lance inquired about other fees for the project assistant at \$65.00 and the secretarial clerical fee at \$45.00. Mr. Pena explained that those services would only be added if needed.

Regular Meeting Minutes
February 17, 2009
Page 5

Council held discussion with Mr. Pena about other cities he works for. Mr. Pena said he's a consultant for them on a regular basis. He usually takes care of any regulatory issues. He's worked on different cities on gas supply issues and right now he's with Georgewest, Cotulla, Castroville and Lytle (The City of Lytle budgets for him every year).

Alderman Cortez inquired how hard it would be for him to find a supplier. Mr. Pena informed Council that since we are a small market, he's hoping that maybe the same supplier will be looking at all three markets with expiring contracts (Castroville, Lytle and Devine). He explained that hopefully they can find a way where they can move a package of gas on the pipeline and just nominate to each city gate.

Simon talked about West Texas Gas. He stated that they do move gas on the Enterprise system but he wasn't sure what arrangements they have with them. He explained that Enterprise is an intra-state pipeline system, solely within the state of Texas, so it's confined to what sources can move gas onto that system and deliver to the market.

Discussion was held on the number of gas customers in each city. Castroville has around 1300 customers, Lytle has 400, and Devine has 900.

Alderman Cortez commented on Simon working with all three cities (Castroville, Lytle and Devine) at the same time and working with the same supplier company, and expressed concern over his charges, simply because we only have two months to work with. Simon explained that he will only be charging Devine when he is on Devine's time. City Attorney Tom Cate clarified with Simon that if he were talking to one of the suppliers for all three cities, if he would split his \$90.00-95.00/hour fee between the three cities. Simon responded that he would absolutely split the cost; he told Council not to worry about that.

When asked if he had any idea of what it will cost, Simon Pena told City Council that natural gas is driven; there are several hubs in southwest Texas where he can market gas but he really needs to research first. He said he hasn't looked at our contract yet but that he suspected it's through the Houston Ship Channel. City Administrator Dora V. Rodriguez told him that it is. Simon told Council, "That happens to be an index that is published every month and it is based on a pool of gas that's potentially going to be end of the market, and then they drive a price and settle on a price towards the end of the month, and that's what your next month's price is going to be." He told Council that right now he doesn't have any idea of the cost. Ms. Nancy Pepper explained to Council that the index varies every month.

Mr. Pena told the Council for the City to take into consideration that we don't have to go on an index; we can actually go with a fixed price except that would also go by what the marketer is willing to do for us far advanced. He explained it used to be that marketers wouldn't mind going 4-5 years out into the fixed market, but nowadays they just don't know where the gas prices are going to go. He told Council to consider those two options.

Regular Meeting Minutes
February 17, 2009
Page 6

Alderman Espinosa stated that he has no problem with hiring Simon. Alderman Lance expressed concern on whether we would be writing a blank check. City Attorney Tom Cate spoke on Simon's behalf and told Council that he's known Simon for almost 20 years and he's been working for the City of Lytle close to five years. He said he's known Simon to be very fair and he only bills for what he does. He said he's never heard any complaints on Simon, and he recommended that we try him out because everything has to be ready by May 1st.

City Administrator Dora V. Rodriguez told Council we don't have much time; Simon would have to start working right away. She told Council that we'll probably need to have some special meetings so that they can approve which supplier to go with, and at that time is when Simon can prepare a draft invoice for us so Council can see what he's billing us.

Motioned by Alderman Cortez, seconded by Alderman Ramirez to approve hiring Simon Pena as our Consultant to help with the Proposal for Purchasing Natural Gas.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The seventh order of business was to discuss and consider letter received from Enterprise Products on disconnection of natural gas from July 7, 2009 which will require approximately 21 days for the testing of their pipelines.

City Council reviewed letter from Enterprise Products and asked if the disconnection can be done by Enterprise. City Administrator Dora V. Rodriguez stated that Enterprise can do this and informed Council that she and Mayor Lopez along with Director of Public Works Billy Grote and Superintendent of Public Works Ismael Carrillo will be attending a meeting in Lytle on February 19th, to meet with Enterprise representatives. She stated that all the cities being affected have already met once and no one was happy about having gas shut off for their entire cities. She has since sent an email to Congressman Ciro Rodriguez, State Representative Tracy O. King and State Senator Carlos Uresti alerting them of the problem and told them that we want a representative at this next meeting in Lytle because all the cities affected (Castroville, LaCoste, Somerset, Lytle, Natalia and Devine) cannot just have their gas shut off. She stated that in Devine, even though we only have 900 customers, a lot of those customers are businesses. She said that what all the cities are trying to accomplish is to ban together to fight this and to move the date back for now because we found out that Enterprise actually has until 2012 to conduct this testing. The concern that Billy & Ismael have, along with City Engineer Raul Garcia, is that because this 24-mile stretch pipeline has never been tested before, Enterprise does not even know what they might uncover or what to expect, so they could run into other problems that would require an extension to the 21 day period to allow for any repairs.

Regular Meeting Minutes
February 17, 2009
Page 7

City Council inquired about other alternative sources. City Administrator Dora V. Rodriguez provided Council with copies of other resources. She explained that in order to get another resource to continue to provide gas for the community, we would be looking at anywhere from \$100,000.00 to \$200,000.00; however, the problem is that in July, we only bring in a gas revenue of \$15,000.00 – \$20,000.00. She told Council that this will break some of the cities. Mayor Lopez informed City Council that he had received a call from State Representative Tracy O. King this morning stating that they are also getting TECQ involved in this. So, we're getting all the help that we can get from our senators, congressmen and state representatives.

Mr. Simon Pena explained to City Council what Enterprise is facing. He stated that a few years back the federal government as well as the state (through the Railroad Commission) passed a law that required all pipelines to be integrity tested. As a result of that, companies had to put all their pipeline assets systems in a risk model and determine which were worst to good. He said 50% of the pipeline based on this risk model, had to be integrity tested by December 12, 2007. He said there are two ways that pipeline companies integrity test their lines: (1) they can hydrostatic test it, or (2) do an in-line inspection that checks for anomalies to see if there's any wall loss or any corrosion. He said that once they find these anomalies, they have to immediately make corrections on that pipeline. Mr. Pena told Council that it must be that this particular pipeline that was made fell in the 2nd half of that integrity testing which has to be completed by December 12, 2012.

Mr. Pena told City Council that when he began having discussions with Enterprise about the July 7, 2009 date and where they were trying to meet the federal and state mandate, they said that hopefully they can push back that date (and so we'll find out at the meeting on Thursday). Simon explained to Council that Enterprise has to do this integrity testing by federal and state law. He said the main thing affecting the cities is that we just didn't budget for the backup supply. In case they do shut down that pipeline, we've got to keep gas flowing even though they believe that it's going to be the lowest flow during the summertime. They believe that if everybody pressures up their line, that we can go through line paths. He said that's making the assumption that everything is going to go perfect. Simon personally doesn't feel that the testing will take 21 days, but told Council that they're making that assumption because they believe they've got to give themselves enough window. He said that what we face as cities is "What do we do for the backup in case something were to happen?" He told Council this means that we have to go out there and get backup gas and those are the bids that they saw.

Simon also told Council that Ms. Mary McDaniel is with the Railroad Commission's Safety Pipeline Division; she is the head of the entire State and she is the one who can actually decide whether Enterprise can be relaxed from that regulatory requirement, at least in Texas. He said we're hoping that if Enterprise can push back the date; it would give us time to decide what we can do from a budget standpoint to make a plan.

Regular Meeting Minutes
February 17, 2009
Page 8

Mr. Pena explained to Council that right now there is no other pipeline to which we can physically connect, to do a jumper-type situation where we can have a supply while this pipeline is being repaired and worked on. He said this means looking at getting tanker trucks that are approved for compressed natural gas and having them hooked to our city gate to deliver the volume through those tankers and as the system draws down that volume, they'll have to be replenished. He said this is where it gets expensive.

Superintendent of Public Works Ismael Carrillo explained to City Council that with one of the companies he looked at, their tanker trucks would have to be exchanged every 2 ½ days, so we would need about 10 trucks minimum. Alderman Lance inquired what the cost would be. City Administrator Dora V. Rodriguez said that one proposal was \$140,000.00 and another was \$213,000.00 for the whole 21 days.

Council held discussion on grant availability. City Administrator Dora V. Rodriguez told Council she's already talked to Judy and Margaret with Langford & Associates. They have already called ORCA and are trying to see if there are any grants out there to which we can apply. She explained that right now there are deadlines for a lot of grants but because this is considered an emergency, they are checking into it.

City Administrator told Council that the City of Lytle has hired two grant writers. They attended the meeting and informed everyone that if we can get this delayed, it would be easier to apply for a new project and receive monies for it rather than try to apply for a grant to help with the cost which we cannot afford. The new project they spoke of was to have an interconnection with all the cities in doing a 20-mile stretch pipeline. Mr. Simon Pena explained it would basically be a joint venture between all the municipalities in building a pipeline. Simon told Council that Ismael had wanted him to relay that this is not a one time thing. He explained these regulatory requirements are on a cycle and will be repeated every seven years; so this is something the City will need to look into the future as happening again.

City Administrator informed Council that this was just for their information only; no motion would be needed. She said we would keep them posted.

The eighth order of business was to discuss and consider Expense Report by the Devine Chamber of Commerce.

Ms. Fran Taylor addressed City Council on the Fall Festival expenditures. She stated that they were lucky this year to be given a large amount from the City out of the hotel/motel tax revenue. She said their total expenses were \$22,172.04 and their total income (minus the \$9,000.00 contribution from the City) was \$18,854.74. She said they were in the red this year, but promised she would furnish Council all of the receipts. She said it was a wonderful festival and there were a lot of things they could have cut back on and they are now aware of what needs to be done; so this year she's hoping will be a lot better. She said the Chamber does need money and they are planning a Spring Fling to be held on March 12-13-14, with

Regular Meeting Minutes
February 17, 2009
Page 9

the carnival coming in on the 12th. She said they plan to do things differently with the Spring Fling than from the Fall Festival. Some of the things planned for the Spring Fling were a cook-off, a kite decorating & making, entertainment throughout the day and a dance in the evening. Since most of this will be held inside the community center this time, she's hoping to make some money since they won't have to go through the expense of renting a large trailer and sound system plus other things they spend money on during the Fall Festival.

The ninth order of business was to discuss and consider approving subdivision plat submitted by Rhonda Butler, on behalf of Roy Mello & Scott White to vacate Devine Oaks Subdivision, Unit 2, Block 4, Lots 4, 5, & 6 and re-plat as Devine Oaks Subdivision, Unit 2, Block 4, Lots 13 & 14, which is located on the south side of the 700 Block of Jack Nicklaus Drive.

Code Compliance Officer Darrell Rawlings addressed City Council and reminded them that this is one of the three plats that were brought in December and they needed additional approval so that procedures could follow through correctly. He explained that conditional approval was given on one of them last month. Mr. Rawlings told Council that basically it's making three lots into two lots. All the city ordinances have been met and the City Engineer Raul Garcia, has signed his approval.

Council inquired if this had already gone through Planning & Zoning. Mr. Rawlings stated that they did not need any waivers or variances so they did not go before Planning & Zoning.

Motioned by Alderman Cortez, seconded by Alderman Lance to approve the subdivision plat submitted by Rhonda Butler, on behalf of Roy Mello & Scott White to vacate Devine Oaks Subdivision, Unit 2, Block 4, Lots 4, 5, & 6 and re-plat as Devine Oaks Subdivision, Unit 2, Block 4, Lots 13 & 14, which is located on the south side of the 700 Block of Jack Nicklaus Drive.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The tenth order of business was to discuss and consider request by the Food Pantry Ministry, Inc. to waive fees for Sewer Hookup and for Certificate of Occupancy.

Ms. Londenberg addressed City Council about the Food Pantry needing to vacate their current location. She first thanked Mayor Lopez for everything he had done in the past for the Devine Food Pantry and for getting them into the VFW Hall. She said that now the Food Pantry needs to vacate the VFW Hall, and they are pursuing all options. She said right now there is nothing out there definite, but they are pursuing Mr. Pete Bond's offer for the

Regular Meeting Minutes
February 17, 2009
Page 10

use of his building that is located on Highway 132 across from Medina Valley State Bank. The offer is to use the building rent-free for one year before he will put it back on the market; however, the building has no sewer or water connections at the time. She told Council that the Food Pantry is a non-profit organization and they are supported by local churches and local businesses and individuals in the community. She explained that the Food Pantry provides emergency food relief to the indigent citizens of Devine.

Mayor Lopez expressed his appreciation for everything that the Food Pantry does for all the people in our city and told them that they are doing a great job. He then read a note submitted by Alderman Espinosa who couldn't be at the meeting tonight stating that Mr. Bond should pay for the utility services for the Food Pantry. Mr. Bond was not available for questioning.

City Administrator Dora V. Rodriguez stated that when the City was trying to get an easement from Mr. Bond, he refused and wanted the City to pay for it. She said that she had explained to him that in all her years of service to the City, the City has never paid for an easement because normally an easement benefits that individual and she offered to give him a sewer tap at no cost to him for giving us the easement. She explained that she even checked with our city attorney on this and he confirmed that cities do not buy easements.

Council held discussion that the Food Pantry was not here to hear about what happened in the past; however, it is a decision that was made which will affect this request.

City Administrator Dora V. Rodriguez told Council that before they make their decision she wanted them to know that Mr. Bond did come back in February 2008 to ask about the cost of getting water and sewer services for his property. The cost to extend water services to him would have been \$5,000.00 and to extend the sewer would have been \$4,000.00. Alderman Lance inquired if the property was up for sale now but no one knew that for a fact. Alderman Lance stated that after one year, if he were to put the property up for sale, his asking price would be at least \$9,000.00 higher.

Discussion was held on whether Mr. Bond is even willing to sell, and if the Food Pantry is even interested in buying or leasing the building from Mr. Bond. Ms. Londenbergh told City Council that they are a non-profit organization and they do not have any funds to pay rent or lease the property. She said that they may be able to pay utilities from the donations that are coming in but they do not have sufficient funds.

Mr. Nixon spoke on behalf of the Food Pantry. He told Council that Mr. Bond had offered to remove the building from the market for one year. He said they are desperate for a house, and have asked several churches and businesses and everyone has said "no." He told Council we have people in our community that are hurting and their job is to do this ministry to help them. Mr. Nixon asked if the City had a place for them. He said this is the only door that has opened for them, and they are asking for leniency. He said he didn't

Regular Meeting Minutes
February 17, 2009
Page 11

know about our wrangle about utilities, and all he is saying is that they need help, and that's why they're here.

Discussion was then held over how much room would be needed and hours of operation. Right now their space at the VFW is around 250 square feet; they would love to have at least 500 square feet. They would be open only on Tuesdays and Thursdays, from 10:00 a.m. to 1:00 p.m. Discussion was also held on possibly only having 10 more days left at the VFW. Someone mentioned that there is going to be a meeting on February 23rd at the VFW to decide what to do about the building. He said the building needs a lot of repair and they have no funds; and he honestly felt that the decision will be to close down the building and padlock it. He said they have to move everything out possibly as early as 10 days. Mayor Lopez then added that due to the high cost of electricity, half of the building (everything on the west side) will be closed. He said that Bob Mays is the Commander of the VFW and he has the final say-so.

Alderman Cortez suggested the Food Pantry temporarily using the Chamber of Commerce office to pass out food, possibly two days a week; of course, we would need to speak with the Chamber of Commerce to see if we can work things out. Alderman Cortez said he's only making suggestions because of what happened before with Mr. Bond's building, and he would rather hold off making any decisions until he speaks to Mr. Bond himself to find out what's going on first.

City Administrator Dora V. Rodriguez told Council that the Community Center is already running out of space to store things.

Alderman Cortez then suggested for the Food Pantry to look into the cost of purchasing a metal building or mobile unit for them to store their food and to get back with City Council to see how we can do it. He said he still felt they should be at the Chamber of Commerce office only until we find out what we're going to do about Mr. Bond's building. Mr. James Caldwell, Vice President of the Chamber of Commerce, was present and commented that the Chamber of Commerce had to go get a storage unit and they do have a lot of room that they are not using and he would be willing to share it, but, he said the question is "How will the food stand up to the heat?" He also commented that it would be very tight at the Chamber of Commerce office because it is very small.

Council held discussion to table this item until we hear what happens at the February 23rd meeting at the VFW, and then we'll get back with them.

The eleventh order of business was to discuss and consider amending Ordinance Chapter 94 Article VII – Trucks.

Alderman Ramirez stated that he wanted to bring this before Council again because he wanted to inform local truck drivers of what is going to happen and what is going on. He told Council that a few truck drivers were present who drive for a living and they wanted to

Regular Meeting Minutes
February 17, 2009
Page 12

voice their opinions. Alderman Ramirez said he wanted to bring this before Council to find out now what we can do to amend or change the ordinance to where these truck drivers wouldn't be violating the ordinance and wouldn't be ticketed. Supposedly this ordinance was done in the 70's. Alderman Ramirez stated that these people live here in Devine, they pay their taxes and they do this for a living; he feels that they have a right to be able to park their trucks where they need to park.

Paul Reed addressed City Council. He stated he's been a truck driver since 1998. He said he doesn't own his vehicle but it's the one he uses to support his family. He said that for the last three years, he's been parking his 18-wheeler truck at his residence because he has the room. He has 4 ½ acres and he also allows two other drivers to park on his property. As far as any complaints, he stated that a lot of them leave very early in the morning. He said that whether they haul grass, crude oil, cattle or hay; it doesn't matter, that's their source of income. He feels that it's been a personal vendetta between one or two individuals. Mr. Reed said that the ordinance refers to a dual rear wheel vehicle which could be various trucks. He recommended that we amend the ordinance completely. He told Council that they (truck drivers) don't drive any more than they have to up and down residential streets other than what is necessary to get to work and come home. He pointed out that as truck drivers they don't have the luxury of 8:00 to 5:00 jobs so it does mean that they may start up their trucks at 2:00 a.m. for 4:00 a.m.

Mr. Reed told Council that at the last meeting held with Alderman Ramirez and the Police Department, it was mentioned that some vehicles are blocking the roadway and that it's an obstruction for children. He inquired that if this ordinance can't be amended, where would they be able to park safely and would Council be willing to take on responsibility for some of these 18-wheelers that cost \$100,000.00 to \$200,000.00. He asked that if their trucks get vandalized, if the City would be able to claim it on our insurance other than the companies they work for or their own insurance.

When asked if he stops at his home or at a truck stop when his truck is loaded, Mr. Reed responded that he brings his truck home loaded because he doesn't trust truck stops; he doesn't feel that they are safe, but he also has the luxury of having a lot of property where he can park safely, which other truck drivers don't have.

Alderman Ramirez stated that this had not been an issue before, but complaints have been coming in lately. He told council that for now Chief Flores has not been issuing any tickets; he's only gone out to talk to these drivers. But, he feels we need to find a middle ground because they are part of our community and we shouldn't exclude them. He said this is what they do for a living. Alderman Ramirez said other cities have the same problem. He told Council that he spoke to the City of Natalia. They had the same problems and they designated an area for their truckers to park their trucks. Alderman Ramirez said he also doesn't feel that it is right to pick on one individual truck driver by putting up a "no truck parking sign" as the complaints come in. Alderman Ramirez held minor discussion on the Test Fleet also using our residential roads.

Regular Meeting Minutes
February 17, 2009
Page 13

Alderwoman Antu brought up complaints she's received from people who live on Corley (in her district). She said it's more of a safety issue with children because the road is not that wide. The truck driver who lives on Corley Street spoke up and said he talked to all his neighbors and told Council that he didn't receive any complaints from anyone. Alderman Antu said she also understands that this is his job and we don't want to alienate his livelihood.

Other issues discussed:

- Chief Flores stated that the meeting held the other day was only meant to gather input from the truck drivers. He said that he wasn't looking for solutions that night, he only wanted input. He said no one has gotten any tickets and he hasn't received any more complaints. Chief Flores said that all he will do is enforce the ordinance. He said that as far as coming up with a solution; this is why we need input and he has no problem bringing it to City Council. Chief Flores stated that he has other things to do other than issuing tickets; he has higher crimes to take care of, but added that he's willing to be open-minded enough to find a compromise with the truck drivers.
- Alderman Ramirez stated his goal is to accommodate these truck drivers who are citizens/taxpayers. He suggested possibly going to the Planning & Zoning Commission to get a variance for parking as stated in the ordinance. Discussion was held that, if needed, the truck drivers would need to come in and apply for the variance first; it would then go before Planning & Zoning, and then come back to City Council to review their recommendation.
- City Attorney Tom Cate agreed that Mr. Paul Reed was correct about the dual rear wheels, and recommended that the ordinance does need to be changed to remove that wording.
- Zack Beadle stated this is going to put him out of business. Council told him they don't want to do that.
- City Attorney Tom Cate pointed out there's two things we're talking about. One is traffic on certain streets and the other is parking trucks on the streets on private property; not on their own property. He said that may be an ordinance question, but this particular ordinance has to do with parking on city streets. Tom clarified that driving their trucks on their street and parking on their own property is alright. He further stated that no variance is needed if they are parking on their own property because there's no violation of the ordinance, as long as they are not parking on the street. According to Tom Cate, if they have no room on their own property to park and no other place to park other than on the street or some other parking lot, then they will be required to come in and request a variance to come before the Planning & Zoning Commission. Tom further stated that they just need to follow the ordinance if they're parking on public streets. He said that if the Police Department is going to start writing citations for that, then they need to come before the Planning & Zoning Commission for that (if they're parking on public property) and

Regular Meeting Minutes
February 17, 2009
Page 14

request a variance. He said that's already stated in the ordinance, they just need to follow the ordinance.

City Administrator Dora V. Rodriguez asked City Attorney Tom Cate if we would need a motion on amending Sec. 94-240 (a) Truck Traffic Regulation to amend the wording on trucks with dual rear wheels. Tom said, yes, we could just remove that wording from the clause.

Motioned by Alderman Ramirez, seconded by Alderman Lance to amend Ordinance Chapter 94 Article VII – Trucks, and to exclude the words “dual rear wheels” from the clause.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

Some discussion was held after the motion on the axle trucks, with the difference being in the tonnage or the amount of weight that can be hauled.

At 8:30 p.m., Mayor Lopez announced we would be taking a short break; and at 8:35 p.m., the meeting was opened to the public.

The twelfth order of business was to review the Airport Advisory Board Meeting Minutes for January 26, 2009.

Council reviewed the Airport Minutes. City Administrator Dora V. Rodriguez informed City Council that Mr. Glendale Estep did receive one lease correction from Mr. Curley Brehm and he will be turning it in to her. He will also be contacting all the other board members to see if they have any more corrections to their leases. She informed Council that we will go into more detail once we go to that item. Mayor Lopez stated that the meeting went well and we did have volunteers willing to renew their contracts.

City Administrator Dora V. Rodriguez told Council the minutes were for review only.

The thirteenth order of business was to discuss and consider recommendation of the Airport Advisory Board to appoint Greg Coyne and Bruce McWhorter to serve on the Airport Advisory Board.

Motioned by Alderman Cortez, seconded by Alderman Lance to approve the recommendation of the Airport Advisory Board to appoint Greg Coyne and Bruce McWhorter to serve on the Airport Advisory Board.

Regular Meeting Minutes
February 17, 2009
Page 15

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The fourteenth order of business was to discuss and consider the Airport Leases.

City Council reviewed a copy of the airport lease. City Administrator Dora V. Rodriguez informed Council that a copy of this lease was given to all the airport advisory board members. They stated that they wanted a chance to review it and to be able to make changes and were given two weeks to turn in those changes, and they have not all yet turned them in. Assistant City Secretary Ofilia Pedroza contacted Mr. Estep and he did tell her that he will be contacting all of the members to turn in their leases.

City Attorney Tom Cate told Mayor Lopez that based upon that information; it would be his recommendation that the Council table this item at this time.

The fifteenth order of business was to discuss and consider request by Devine Little League – Mr. John McCormick – for new Stop Signs to be placed at Park & Sayers, Park & Upson and Moore & Upson and becoming 4-way stops.

Mayor Lopez read a note from Alderman Espinosa stating his recommendation that all stop signs should be placed on all three corners.

City Administrator Dora V. Rodriguez informed Council that Mr. McCormick had visited with her and his reason for requesting the stop signs is for the safety of the children and to help prevent any future accidents. Alderman Lance inquired if we've had any accidents there. He was told it's very dangerous.

Discussion was held on whether we could place temporary signs during baseball season or even making them one-way streets. City Attorney asked Chief Flores for his opinion. Chief Flores told Council that the 4-way stop signs will be good all the way around because there is always something going on there, whether it's a ball game or just practicing. He said there are a lot of kids in that area. He said that during peak season, this will be the best thing and he doesn't have a problem with it.

Motioned by Alderman Cortez, seconded by Alderwoman Antu to approve the three sets of stop signs making it all 4-way stop signs at Park & Sayers, Park & Upson and Moore & Upson., and drafting up an ordinance to adopt.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Regular Meeting Minutes
February 17, 2009
Page 16

Motion carried.

The sixteenth order of business was to discuss and consider request by Rufino Vega for a stop sign or speed bump to be placed at the corner of Bright & Park and Bright & E. Moore Street.

Mr. Rufino addressed City Council and told them that he doesn't mind whether it's a stop sign or a speed bump, whichever is cheaper, as long as it slows down the traffic because there are a lot of children in that area. He explained that this is the area on Bright Street right behind the Devine Medical Clinic. Council reviewed map submitted by Public Works. Mayor Lopez read a note from Alderman David Espinosa (who was absent) where he was recommending that a speed bump be installed. Discussion as held on the preference of speed bumps or stop signs. City Administrator Dora V. Rodriguez stated that the reason David was recommending a speed bump is because in his neighborhood there is a 4-way stop sign, and people still don't stop, so David is saying that a speed bump will force them to slow down. Council held discussion.

Motion by Alderman Lance, seconded by Alderwoman Antu to approve for a speed bump to be placed between the corners of Bright & Park and Bright & E. Moore Street, with the location being close to where the markings are shown on the map, and to draw up an ordinance to adopt.

Ayes	--	Two (Alderman Lance and Alderwoman Antu)
Nays	--	Two (Alderman Ramirez and Alderman Cortez)
Absent	--	One (Alderman Espinosa)

Mayor Lopez went with the Ayes to break the tie.

Motion carried.

The seventeenth order of business was to discuss and consider recommendation from the City Engineer Raul Garcia for the City to award bid to RAM II General Contractors, for Part A – Sanitary Sewer and Water System Improvements in the amount of \$89,547.99 and Part B – Gas System Improvements in the amount of \$16,200.00 for a total of \$105,747.99.

Council reviewed letter of recommendation submitted by City Engineer Raul Garcia and looked at the bid tabulations. City Council asked Director of Public Works Billy Grote if we've worked with them before. Billy stated that we have but it's been a long time ago.

City Administrator Dora V. Rodriguez also stated that for the short distance that they will be working on, Billy and Ismael have no problems with this company. An inspector will be there at all times.

Regular Meeting Minutes
February 17, 2009
Page 17

Motioned by Alderman Cortez, seconded by Alderman Lance to accept the recommendation from the City Engineer Raul Garcia for the City to award bid to RAM II General Contractors, for Part A – Sanitary Sewer and Water System Improvements in the amount of \$89,547.99 and Part B – Gas System Improvements in the amount of \$16,200.00 for a total of \$105,747.99, and for the money to come out of the Bond Money.

Ayes	--	Four
Nays	--	None
Absent	--	One – (Alderman Espinosa)

Motion carried.

The eighteenth order of business was the Executive Session: Pursuant to Provision of the Open Meeting Law §551.071 through §551.076, §551.086, §551.087 Texas Government Code, (Consultation with Attorney, Deliberation Regarding Real Property, Deliberation Regarding Prospective Gift or Donation, Deliberation Regarding Economic Development Negotiations and Personnel Matters).

a. §551.074 Personnel Matters – Animal Control Department – On-Call Pay.

At 9:05 p.m., Mayor Lopez announced to the public that the Council would go into a Closed Session. At 9:15 p.m., Closed Session was opened to the public.

No action was taken in Closed Session.

The nineteenth order of business was to Reconvene into Regular Session and Consider Action, if any, on Items discussed in Executive Session.

No action was taken.

The twentieth order of business was the Reports, namely:

- City Secretary’s Report – Council reviewed report. Everything looked good.
- City Treasurer’s Report – Council reviewed report and told City Treasurer Nancy Pepper to keep up the good work. City Administrator Dora V. Rodriguez informed Council that Ms. Pepper will be having amendments in April.
- Public Works – Council inquired if we’ve heard anything from the Edward’s Aquifer regarding any rebates yet. According to Director of Public Works, we haven’t received anything yet but the Edward’s Aquifer is working on that. Billy informed Council that we should be going into water restrictions soon, according to a letter he received that the Comal Springs is dropping.
- Police Chief’s Report – Chief Flores reported that Officer Debra Aguilar, who had been on maternity leave, should be back the beginning of March. He said he has some other things in the works. He reported that traffic enforcement has been

Regular Meeting Minutes
February 17, 2009
Page 18

good. City Administrator informed Chief Flores that the revenue has been coming in and is looking good. She said a lot of people have been coming in to pay before they come to court.

- Driscoll Public Library – Council reviewed report.
- Chamber of Commerce – Council reviewed report.

The twenty-first order of business was the Informational Items.

- a. Relay for Life

Mayor Lopez announced that the Relay for Life will be the first Saturday of May and encouraged the council members to think about putting a team together. Council said they will think about it.

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

Mayor

City Administrator