

Minutes
Regular Council Meeting
March 15, 2011

On this 15th day of March 2011, 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 William L. Herring
Alderman John Ramirez
Alderman Hal Lance
Alderwoman Marina Antu
Alderwoman Kathy Wilkins
Alderwoman Gina Champion

Thus, constituting a quorum.

Personnel present: Gary Pelech, City Administrator; Dora V. Rodriguez, City Secretary; Nancy Pepper, City Accountant; Robert Flores, Police Chief and Barbara Moore, Library Director.

Others present: Ryan Cunningham, Southwest Securities; Jenny & Dominie Orłowski, 500 Wedgewood, Devine; Dave & Betty Morgan, 413 Monticello, Devine; Bijann Jiwani & Sheraz Mivji, 500 W. Hondo, Devine; MaryJane Balderrama, 504 Jack Nicklaus, Devine; Cheri Ramirez, 506 Webb, Devine; Rogene Cupp, 676 CR 6610, Devine; and Jerry Beck, Commissioner Precinct #4.

Mayor Herring, presiding, declared the meeting opened and welcomed all visitors; Mayor Herring also delivered the Invocation and led the Pledge of Allegiance.

The first order of business was recognition.

Mayor Herring recognized Eddie Neuman a local businessman, Jack Kelly a citizen of Devine and a Scientist for South Texas Research and Jerry Beck, County Commissioner for helping us last month with our economic development project.

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The second order of business was Visitor/Citizen Forum.

Library Director Barbara Moore, informed the council that the Summer Reading Program received an award from the Alamo Area Library Systems. We won the 2010 Innovative Program of the Year for population under 10,000. Debbie DuBose was named Employee of the Year. She also informed the Council that the reason she was coming before them was to see if they would be willing to write to their representatives concerning the library funding because we are facing where the State Legislatures in H.B. 1 will cut funds for Library Systems across the state by 99%. She went over the different programs that will affect our Library.

At 7:04 p.m. Alderman Ramirez arrived.

The third order of business was to discuss and consider the approval of minutes.

Motion by Alderman Ramirez, seconded by Alderman Lance to approve the Regular Meeting Minutes for February 15, 2011 and the Special Meeting Minutes for February 23, 2011.

Ayes	--	All
Nays	--	None

Motion carried.

The fourth order of business was to discuss and consider adopting an Ordinance authorizing the issuance of "City of Devine, Texas General Obligation Refunding Bonds, Series 2011", Levying and Annual Ad Valorem Tax, within the limitations prescribed by law, for the payment of the bonds; prescribing the form, terms, conditions, and resolving other matters incident and related to the issuance, sale, and delivery of the bonds; authorizing the execution of a paying agent/registrar agreement, a purchase and investment letter, and an escrow deposit letter; complying with the provisions of the depository trust company's letter or representations; and providing an effective date.

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Ryan Cunningham addressed the Council on the City refinancing the 1998 Series Certificate of Obligations which is supported by the General Fund and this year 2001 Certificate of Obligations that are supported by the Utility System. These are all the remaining maturities on these two different issues. The interest rates vary from 4.7 to 5.125 on the 2001 and 4.5 to 4.7 on the 1998. Mr. Cunningham told Council that if they authorize the new bonds, Southwest Securities would go ahead and pay the old ones showing that the \$1, 215,000 that we have in outstanding principle plus the interest of \$12,667.98 would be paid off; these would go off our books meaning that would no longer be the city's obligation. He explained we would have \$1,235,000 in outstanding debt and we would be paying off the \$1,215,000, but the savings would come from the interest being lower on the new debt than what we are paying on the existing debt. The cash deposit of \$1,227,667.98 and the cost of insurance. The rate would be 2.8 percent and what this means to the City in savings is that the debt service would save \$88,650.01 until 2021 with this new bond. The debt is not going out any further into the future than what we have on our books right now. He explained that they are not lengthening it; it will be paid off the same date in 2021. Currently we have two certificates of obligations series with a paying agent registrar that charges the City \$500 a year to bill all the bonds holders; they collect the interest payments from the city. Another bonus to the City is that now BBVA Compass Bank will service the paying agent themselves when they issue bonds so this will go away on the two existing ones. We would be getting it for free now where we were paying \$1,000 a year for those two issues and when the one matures a little earlier, it will be \$500 which will be another \$8,500 in savings to the City for a total of \$97,150.01 in savings.

Motion by Alderwoman Champion, seconded by Alderwoman Wilkins to adopt Ordinance 03-11 authorizing the issuance of "City of Devine, Texas General Obligation Refunding Bonds, Series 2011", Levying and Annual Ad Valorem Tax, within the limitations prescribed by law, for the payment of the bonds; prescribing the form, terms, conditions, and resolving other matters incident and related to the issuance, sale, and delivery of the bonds; authorizing the execution of a paying agent/registrar agreement, a purchase and investment letter, and an escrow deposit letter; complying with the provisions of the depository trust company's letter or representations; and providing the effective date March 15, 2011.

Ordinance attached as Exhibit A.

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Ayes	--	All
Nays	--	None

Motion carried.

The fifth order of business was to discuss and consider approving the membership contribution of \$500 for the City of Uvalde and the Keep Our Water Association.

Motion by Alderman Lance, seconded by Alderwoman Antu to approve the membership contribution of \$500 for the City of Uvalde and the Keep Our Water Association.

Ayes	--	All
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider recommendation of the Planning and Zoning Commission for meeting held on March 7, 2011.

- a. Request made by Dominic Orłowski for a variance to be granted to reduce the front set-back from 80-foot minimum to 65-feet at 500 Wedgewood Way, also known as Lot 13 of Block 15 (NCB 167) of the Colonial Oaks Subdivision, for a 12' x 10' accessory building for storage, which will be located on the west side of the existing One-Family Dwelling.

Motion by Alderman Lance, seconded by Alderwoman Wilkins to approve recommendation of the Planning and Zoning Commission to grant variance to Dominic Orłowski to reduce the front set-back from 80-foot minimum to 65-feet at 500 Wedgewood Way, also known as Lot 13 of Block 15 (NCB 167) of the Colonial Oaks Subdivision, for a 12' x 10' accessory building for storage, which will be located on the west side of the existing One-Family Dwelling.

Ayes	--	All
Nays	--	None

Motion carried.

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The seventh order of business was to discuss and consider adopting an ordinance on Panhandling.

City Attorney Cate addressed the council on not needing an ordinance because under the Penal Code Section 42.03 it deals with obstructing highways and it is a violation of the law. Section 42.04 is where we really need to be concerned because if they are exercising their rights of freedom of speech and they're still obstructing the highway, then an officer can ask them to get off the highway; and they refuse, then they can be arrested.

Police Chief Flores advised that they have been using this, but they get asked if we have an ordinance. Mayor asked if we have the proper authority to regulate this. City Attorney Cate advised that he thinks we do without an additional ordinance.

Alderwoman Champion asked if we could require them to have a permit. City Attorney Cate advised that we can, but it would have to be a reasonable fee associated with the cost of processing the permit because we can't try to make money off of this. City Attorney advised that we have a state law that will allow to control them from coming into the road way but they have to be warned about it. Alderwoman Champion stated that if we require them to get a permit with a reasonable fee, then we can make them aware of this at that time. City Attorney Cate explained that the officer will have to actually see them out in the roadway and will have to issue a notice while they are in the roadway because if they are not in the roadway, they are not committing an offense.

Discussion was held on giving them a warning one time and whether that would be enough if they come back another time. Other discussion was held on how we could control this because they have different people who come in every time. City Attorney Cate advised that he does not know how you would keep up with this. City Administrator Pelech advised unless we require them to bring in the permit to us and checks in with us by letting us know where they are going to be. City Attorney advised that on the permit, we can require them to fill out information on their organization.

Mayor Herring inquired what does council have do to approve this permit. City Attorney Cate advised that the city would have to pass an ordinance.

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Council agreed about holding a special meeting after our City Attorney prepares the ordinance for council to adopt.

No action taken for this item.

The eighth order of business was Informational Items:

Mayor wished Alderwoman Wilkins a Happy Birthday.

Mayor Herring announced that he and Gary toured the Bio Fuel Site along with giving a tour of our property that we are offering.

Mayor Herring had the City Attorney brief the council on Hester Park where he informed the council that he talked to Mr. O'Neil who is the lawyer that is helping us on the condemnation lawsuit. He just got back in to his office; he was on vacation. He advised that we have two lawsuits currently going on and we are trying to resolve the one in District Court so we can go on with the condemnation. Mayor Herring asked about time frame. Tom advised that he needs to go to district court and look at the file.

City Administrator Pelech informed the council that we are working on overlaying streets. Will be working with council on future streets to do. He also advised that the city is doing an Auction on April 18, 2011.

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

Mayor

City Secretary