

**Minutes**  
**Special Meeting**  
**April 6, 2010**

On this 6<sup>th</sup> day of April 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:

Alderman Frank Cortez, III  
Alderman David Espinosa  
Alderman Hal Lance  
Alderman Marina Antu

Absent being Mayor Jerry Beck and Alderman John Ramirez; thus, constituting a quorum.

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

Others present: Simon Pena-Gas Consultant; Sandy Herrera-Devine News; Kathy Wilkins and Gina Champion of Devine, Texas.

Mayor Pro-Tem Frank Cortez III, presiding, declared the meeting opened.

The sole order of business was to discuss and consider entering into a Supply Agreement with CenterPoint Energy Mobile Solutions for the Alternate Source of Gas for the period of the Pipeline Integrity Test that will be conducted in July 2010.

City Council reviewed agreement. City Attorney Tom Cate informed Council that there are not too many things wrong with the agreement. Two areas of concern for him were: (1) the indemnification clause on page 2, paragraph 10 – He said “by law” we cannot indemnify anymore, so he wants to add “to the extent by law;” and paragraph 15, page 2 – Fifteen (15) days from receiving an invoice. He was more concerned whether funds would be available during those 15 days. Discussion was held on adding more cushion to the amount just to be on the safe side. Discussion was held that the City of Lytle budgeted \$100,000.00 just to be on the safe side.

Interim City Administrator Dora V. Rodriguez told Council that if they do decide to enter into this agreement, her understanding is that if they do allow for a cushion to the \$75,880.00, they need to state it in their motion that we will be transferring the amount from the Sewer & Water to the Gas System Fund because that's what they talked about during the budget workshops. She said this way, we would have more than enough to take care of this, but Council would then have to set a rate later for the gas customers so they can pay back Sewer & Water for that transfer; however, she explained that we cannot set a rate for the

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customers until after the integrity test has been completed because that's when we'll know how much was spent.

City Attorney Tom Cate stated that there may be three sources of Gas; we may get West Texas Gas out of the Enterprise Pipeline, Via (out of San Antonio), or the most expensive gas would be out of Houston.

Simon Pena, Gas Consultant, discussed the CenterPoint Energy Proposal with City Council. He pointed out the total project estimate at \$75,880.00 on Page 2. He explained that the three cities (Lytle, Devine, and Castroville) along with West Texas Gas got together in a cooperative effort to try to minimize the cost on this whole project versus individually trying to cut a deal with CenterPoint, for example. By doing this, CenterPoint went out and calculated what would be the most economical and best way to come up with cost for each city. They did this based on our gas usage, maximum daily volumes; and they did this for each other city. According to Simon Pena, the cost is really based on the expected daily volume or Mcf; he said they estimated 50 Mcf per day.

Simon Pena also held discussion on ways of minimizing the cost of gas. Instead of CenterPoint going back and forth to Houston and purchasing third party gas based on their rate, of which they're not a local distribution center so they don't buy volumes like we do; therefore, they don't really get a discount as a gas center like we do, so CenterPoint will have to try to get it at the best price that they can. He then explained we currently purchase gas on the Houston Ship Channel + Index, which ranges anywhere from \$4.00 to \$6.00. He explained that what we need to do is to try to find a place locally where we can set up a temporary city gate station in lieu of our City gate station which will be completely blocked off, and have West Texas Gas Marketer nominate the gas that we will only take at our city gate; nominate it to that point and all the other cities. Then, they, at some point, will assist in that process with West Texas Gas and set up a temporary compressor to pressurize up the natural gas to the pressures that need to be given to the tanker truck. He explained that we, then, would buy the gas like we normally buy it. Even though there will be some added costs, like for the compression or for delivery, it would still be cheaper than paying for the transport of driving back and forth, plus the cost of the natural gas itself. According to Mr. Simon Pena, CenterPoint has been instructed by the City to try this alternative source.

However, he explained that the only problem we're facing right now is that we may not get a compressor large enough to handle the volume that we need. Council held discussion on that. Mr. Simon Pena also spoke to City Council about other vendors. He said CenterPoint has also been instructed to get with these other vendors to see if they can cut a deal; he is hoping that we can get a bigger compressor locally.

Mr. Pena told Council that the estimates are for a 21-day outage. We're hoping that it will be less than that, but if problems arise, it could also take longer; there are a lot of unknowns.

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Mr. Pena told Council that this is about the only vendor that provides this type of service that is ready to do the service. He told Council that there is a deadline of April 12, 2010, so

time is of the essence, because they have to make some commitments because they have other projects throughout the country. With that said, Mr. Simon Pena recommended to City Council to approve entering into an agreement with CenterPoint Energy.

City Council held more discussion on the tanker trucks and the number of loads. Interim City Administrator Dora V. Rodriguez informed Council that our Director and Superintendent of Public Works, Billy and Ismael, would be there also.

City Attorney Tom Cate told Council that we are also going to have to enter into a Scope of Work Agreement that we will need to attach as an addendum to this agreement, so we can negotiate. He explained that we want them to get as much gas as they can, either from Enterprise's pipeline where it's cutoff, or from Via (if we can) if it's going to be cost effective.

City Attorney Tom Cate mentioned that he was at a Railroad Commission meeting today, and he told Council that West Texas Gas has filed a complaint with the Railroad Commission to push this back beyond July. He said what they're saying is that they need a little more time to study how Enterprise has figured out how they're going to conduct this test and why it's going to take them 21 days to conduct it. According to Tom, someone was there from the Railroad Commission who does Pipeline Safety. When they asked him about delaying this project, his response was, based on what he knows today, that he is recommending not delaying it. It's been delayed a year already and he stressed that the more we delay this, the greater we increase the risk that something will happen to that pipeline.

More discussion was held on the integrity pipeline testing and having a deadline of 2012, and on how long it's been since the entire pipeline system was tested and how the rankings were determined.

Mr. Simon Pena told Council that the case before the Railroad Commission is two-fold: (1) West Texas Gas Marketing (our marketer) filed a complaint along with its sister company, WTG, Inc., which is the distribution company that has Somerset and Natalia. They are asking if CenterPoint came up with the right plan of 21 days and how did they come up with that plan. Enterprise has to prove to the Commission that it was reasonable and just. A year has past and they have new data. (2) The other part of the question is that WTG, the distribution company, has to recover that cost. They have a statewide rate for all of their customers. These customers should be the only customers paying for that. They need to resolve how they're going to get relief for their own customers. Simon told Council that a pre-conference is coming up and then the final conference will be on April 19<sup>th</sup>.

Interim City Administrator Dora V. Rodriguez told Council that we just need to move forward and proceed as normal.

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City Attorney Tom Cate told City Council that the final date when they will decide whether to delay this test any more is April 19<sup>th</sup>, so we need to make this contingent upon the project

moving forward at this time. He told Council that we want to get it over with and resolved. We're ready to go to get this done in July. He said, "Let West Texas Gas and Enterprise continue to argue about getting reimbursed or not.

Mr. Simon Pena held brief discussion with Council on a 20% down payment, which is one of the many unknowns.

On April 19<sup>th</sup>, Mr. Pena said, the Railroad Commission will decide if this project will be delayed or not. That has to be resolved on the 19th. He said that the other question about cost and everything else will be done later. Mr. Pena recommended that we can indicate to the Commission that we have budgeted for this and we are ready to go. He said we don't want to give the impression to the Railroad Commission that we are part of the delay.

City Attorney Tom Cate explained to Council that they want 20% reservation of the estimated cost when we approve the supply agreement and the scope of work agreement; however, they're not asking us to approve the scope of work agreement right now. They want us to approve the supply agreement. He said that when we do approve the scope of work agreement, they are going to want a 20% down payment.

Alderman Cortez stated that we should get it done now. He said that thanks to Public Works and the office staff that we have that kind of money in our Sewer and Water.

Motioned by Alderman Espinosa, seconded by Alderman Cortez to approve entering into a Supply Agreement with CenterPoint Energy Mobile Solutions for the Alternate Source of Gas for the period of the Pipeline Integrity Test that will be conducted in July 2010, to include changes in the indemnity language in Section 10, and to amend the budget to transfer \$100,000 from Sewer & Water to the Gas System, with the understanding that this is only part of the agreement and the next step is to get together with CenterPoint to draft the terms of a scope of work agreement.

Supply Agreement attached as Exhibit A.  
Proposal from CenterPoint Energy attached as Exhibit B.

Ayes	--	Four
Nays	--	None
Absent	--	One (1) – Alderman Ramirez

Motion carried.

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There being no further business to come before the government body, Alderman Lance motioned to adjourn the meeting.

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Mayor Pro-Tem

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City Secretary