

Minutes
Special Meeting
April 7, 2009

On this 7th day of April 2009, 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 Steve A. Lopez
Alderman Frank Cortez, III
Alderman David Espinosa
Alderdwoman Marina Antu
Alderman Hal Lance

Absent being Alderman John Ramirez; thus, constituting a quorum.

Personnel Present: Dora V. Rodriguez, City Administrator; Ofilia Pedroza, Assistant City Secretary; Nancy Pepper, City Treasurer; Chris Andrews-Sergeant/CID, Devine PD; and Billy Grote, Director of Public Works.

Others present: Lois Golden, Houston, Texas; Sandy Herrera, Devine News; Fran Taylor and Tammy Alanis, Devine Chamber of Commerce; James Caldwell, Devine Chamber of Commerce/Doll-Fin Dynamics; Woodrow, Tina and Bronson Wilburn; and Sonia J. Lance of Devine, Texas.

Mayor Steve A. Lopez, presiding, declared the meeting opened.

The first order of business was a Presentation of donation to the Greater Devine Chamber of Commerce.

Mayor Lopez explained that there had been a small amount of money left over from an old Economic Development Account, and he got permission to be able to donate this money to the Devine Chamber of Commerce which he felt could use the money. He presented a check for \$1,447.03 to Chamber President Fran Taylor so that the Chamber could use this money in any way necessary for the organization.

Mrs. Fran Taylor gladly accepted the check from Mayor Lopez and thanked the City and Mayor Lopez for helping them out. She introduced her Chamber of Commerce co-workers who were present at the meeting: James Caldwell, Vice President; and Tammy Alanis, Secretary. She also thanked the City Council.

The second order of business was to discuss and consider Appointment of Election Judges and Clerks for the May 9 2009 General Election.

Special Meeting Minutes
April 7, 2009
Page 2

(La segunda orden de negocio fue para discutir y considerar el nonbramiento de jueces de elección y secretarios de votación para la Elección General el día 9 de Mayo de 2009.)

Council reviewed a list of judges and clerks. City Administrator Dora V. Rodriguez explained that even though Mr. and Mrs. Fraga have always helped us with the General Election, there's always the possibility that we might have a change with the election clerks which is normal. *(El Concilio examino la lista de jueces y secretarios de votacion. Dora V. Rodriguez, la administradora de la ciudad, explico que aunque el Sr. y Sra. Fraga siempre nos han ayadado con la Elección General, hay la posibilidad que tendremos cambios con los secretarios, cual es normal.*

Motioned by Alderman Cortez, seconded by Alderman Espinosa to appoint the Election Judges and Clerks that are listed for the May 9 2009 General Election. *(Mociónado por El Concejal Cortez, segundado por El Concejal Espinosa para elegir los jueces y secretarios de elección que están en la lista presentada para la Elección General el día 9 de Mayo del 2009)*

List of Election Judges and Clerks attached as Exhibit A.
(Lista de Jueces y Secretarios de Elección adberiro como Exhibido A)

Ayes <i>(si, voto afirmativo)</i>	--	All <i>(todos)</i>
Nays <i>(voto no afirmativo)</i>	--	None <i>(ninguno)</i>

Motion carried. *(Moción aprobado).*

The third order of business was to discuss and consider request made by Woodrow Wilburn on the creek property on Fay Street that he owns, which the City needs for a drainage easement.

Mr. Wilburn addressed City Council and said that he was aware the City needs the property to continue on with the creek project. He told Council he was willing to work something out with the City and that he did not want to have to go to court over this.

Council reviewed a list of city property owned by the City.

Mr. Wilburn talked about swapping properties. He said if we could do something like this, it would save the City some money; it would save him a headache, and we could specify exactly what's going to be done there. He said there are two oak trees on that property that he doesn't want to lose.

Council reviewed map with Director of Public Works Billy Grote.

Mr. Wilburn told Council he's also considered selling the other part that's on the other side of the creek. He said the school had talked about extending their boundaries and moving

Special Meeting Minutes
April 7, 2009
Page 3

the road over or making a bigger paved parking lot. He told Council he understands that would be something he would need to take up with the school.

Council held discussion with Director of Public Works Billy Grote on how wide it is now. According to Billy Grote, right now it's about eight foot wide. Mr. Wilburn told Council it would depend on the grade also because depending on how deep it needs to be would determine how wide it should be. Director of Public Works Billy Grote told Council that it should be very similar to what has already been cut on the other side of the bridge there. Right now it's 100 feet. Mr. Wilburn was asked if the water has ever gotten into his place. He told Council it's never gotten into his house but it has gotten no more than halfway between the creek and his house. Alderman Cortez told Mr. Wilburn that this is what this whole thing is about – how we can put a stop to all that; we're trying to better this where it won't happen and we're trying to prevent the flooding. Mr. Wilburn told Council that years ago he had tried selling the property to the City but at that time, they didn't want anything to do with it; that was back in the '70's.

Mr. Wilburn told Council he just doesn't want to get to the point where we have to go to court because he knows he would lose if we do that; he doesn't want to drag it out. He said he came forward because he didn't want any problems and wants to work this out.

City Administrator Dora V. Rodriguez asked City Attorney Tom Cate if it would be better as things come up to try to acquire, or to just do it all; she asked for his recommendation. City Attorney Tom Cate explained that in the past, we've have very difficult times with the project itself mainly because of the money. He said that we know that we need to do this project and if we have the opportunity to acquire the land that will allow us to do the project, he recommends that when we do get the funds, we should acquire the property.

Mr. Wilburn talked about doing a switch with the properties. He told Council that the land that the City owns is not currently on the tax roll but if we turn it over to him, it would be on the tax roll. City Administrator Dora V. Rodriguez asked City Attorney Tom Cate how this would work if the Council agrees to something like that. Tom explained that it would be the same as when we did the golf course. He suggested for the City to give Mr. Wilburn a chance to look at this property and then to discuss further with the City Administrator to see what we might be able to exchange. He said that would be one way of doing it.

City Administrator Dora V. Rodriguez asked Tom about the market value and Tom said that was the equal value. Mr. Wilburn told Council that he didn't know what value we had on the easement but he felt that we start digging, we're going to need more than what's on paper; he said that one side of the creek is built higher than the other side.

City Attorney Tom Cate asked Mr. Wilburn if he had any objection to having our city engineer coming out there and shooting the grades. Mr. Wilburn said he thought he did that already because his boundaries have been posted at the edge of his property at several

Special Meeting Minutes
April 7, 2009
Page 4

locations. Director of Public Works Billy Grote said our city engineer, Raul Garcia, needs to go in there and take a look; he only marked off where it would be channeled and how wide it is. Mr. Wilburn stated that he wouldn't have a problem with it but he wants to make sure that the trees are saved. City Attorney Tom Cate informed him that the City of Devine would want to save all of the trees that we can. Mr. Wilburn said he didn't have a problem with having the city engineer go out there but he said he'd like an advanced notice so his wife would be aware of it.

Alderman Espinosa and Alderman Lance discussed swapping properties would be one thing but inquired about a dollar figure. City Attorney Tom Cate said we don't know that yet but said there has to be an appraised value. Tom stated that he recommends for our city engineer to go out there first so he can bring the information back to the Council, and then we can agree upon the appraiser to have it appraised. It was discussed that they would table this item until City Engineer Raul Garcia goes out there, and then it would be brought back before City Council. Council told Mr. Wilburn they will be contacting him.

Motioned by Alderman Lance, seconded by Alderwoman Antu to table this item on creek property owned by Woodrow Wilburn until City Engineer goes out there to shoot the grades and brings the data back before City Council, and until an appraisal is made.

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

Motion carried.

The fourth order of business was to discuss and consider request by Lois Golden to be annexed into the Devine City Limits for property located on Zig Zag.

Mrs. Lois Golden addressed City Council and stated that she owns one acre on Zig Zag and wants to be annexed into the City of Devine city limits. She said there are also eight other acres out there; one belongs to her brother and the other seven are in her father's estate. Mrs. Golden told City Council that even though she only owns one acre, she wants to consider the other eight acres in the annexation. City Council reviewed map along with Mrs. Golden. She stated that she intends to develop and build homes. She wants to put a road through it and sell the property in lots.

City Attorney Tom Cate asked Mrs. Golden if there were other owners on the seven acres. She stated that she has four brothers and one sister that are on the estate. When he asked her if they would all be in agreement to have the seven acres annexed, she stated that they will be after she talks to them. She stated that she is in charge of it all.

Special Meeting Minutes
April 7, 2009
Page 5

Brief discussion was held on meeting all code regulations and not building any red light districts.

City Attorney Tom Cate explained that the way the City could annex would be for her to present a petition to be annexed; he told her it could be with her one acre to start out, and then she could get everyone else to sign on the seven acres. He explained she would need to file that petition with the City; they would accept it, and it would be studied to see if it would be in the best interest of the City to annex it. Ms. Golden said that would be alright; she said she was in no rush and would start working on the paperwork. Tom offered to help her with the petition, with the City's approval. Mrs. Golden stated that her father's will is being handled by the McGowan Law Office. Tom advised her to get Mr. McGowan to draw her up a petition for voluntary annexation, and then the City can just review it. Mrs. Golden agreed to do this.

Motioned by Alderman Lance, seconded by Alderwoman Antu to table Lois Golden's request to be annexed into the Devine City Limits for property located on Zig Zag until she presents a petition for voluntary annexation for further review from the City.

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

Motion carried.

The fifth order of business was to discuss and consider request by Tony Zamora (Tony's Bar & Grill) to amend ordinance establishing extended hours for the sale of beer for on-premise consumption.

Mr. Tony Zamora was not present for the meeting.

Discussion was held that Tony's Bar & Grill does have their beer license for the normal hours. City Administrator Dora V. Rodriguez told Council that the ordinance for late hours was in their council packet, and right now the businesses with late hours are Ric's and Ruthies; however, she stated that Tony is requesting for extended hours by way of more days than what is stated in the ordinance. Some of the Councilmen held discussion that they wouldn't want more days.

Sergeant Andrews addressed City Council and informed that as far as the ordinance goes, they would be okay with those hours, but to extend it to more days would be an extreme. He gave Council the following example: From mid-October to just this past Saturday, the Police Department has had 13 calls over there, all for disturbances, loud music, etc. Sergeant Andrews stated that he didn't want to say anything bad about Tony's because it's a nice place and they haven't had any actual problems there. They keep their entertainment outside; they

Special Meeting Minutes
April 7, 2009
Page 6

have a live DJ, so the music is kind of loud on occasion. He said they are real good about working with the police officers; they'll go by and they are real quick to turn down the music. However, Sergeant Andrews stated that as far as extending the hours more during the week by adding more days, would give us more problems because a lot of the people in that area are working people, elderly people; the apartment complex is right behind there. He feels it would be a bit extreme if we allowed him to do that.

Alderman Lance commented that if Tony felt it was important enough to be on the agenda, he should've been here tonight. Council agreed. Alderman Lance also stated that he can't see any loud music on weekends next to where he lives; he would be upset with that. He said he would have really liked to hear from Tony, and he was going to abstain from voting.

Motioned by Alderman Espinosa, seconded by Alderwoman Antu to deny request made by Tony Zamora (Tony's Bar & Grill) to amend ordinance establishing extended hours for the sale of beer for on-premise consumption.

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

Motion carried.

The sixth order of business was to discuss and consider request by Arturo Contreras for waiving of permit/inspection fees on building a new house due to his house burning down.

Mr. Arturo Contreras was not present at the meeting but Alderman Espinosa spoke on his behalf. He told Council that Mr. Contreras had approached him about this after his house burned down about one month ago. He said that even though he's getting a lot of help, he's having a hard time, and he is wanting to know whether we would consider the waiving of the permits and inspections. Alderman Espinosa explained that Mr. Contreras is planning on rebuilding on his property.

Alderman Espinosa explained that he got with Darrell Rawlings and was told by Darrell that this has never been done before but it didn't mean that it couldn't be done. He said it wasn't impossible; it would be up to City Council.

Alderman Lance inquired what the total fees we were talking about were. City Administrator Dora V. Rodriguez said the fees would be based on what they will be building. Council held discussion on all the permit fees involved.

Special Meeting Minutes
April 7, 2009
Page 7

City Administrator Dora V. Rodriguez advised council that the only thing they would need to take into consideration is Troy's inspection fees. She explained that the way Darrell does the permits is that everything is built in into the actual inspection that we pay Troy. She said for the City's part, we could probably waive the permits but Troy is still going to charge the City to do his inspection, so she's not sure how we would do that. Alderman Espinosa stated that Darrell could get with Troy to find out if we would waive his fees.

Motioned by Alderman Cortez, seconded by Alderman Espinosa to approve waiving the permit fees from the City for Arturo Contreras on building a new house due to his house burning down, and table the inspection fees until Darrell is able to talk to Troy Martin.

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

Motion carried.

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

Mayor

City Secretary