

Minutes
Regular Council Meeting
April 16, 2013

On this 16th day of April 2013, at 6:00 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 Hal Lance
Alderwoman Kathy Wilkins
Alderwoman Gina Champion
Alderman Steve A. Lopez

Absent being Alderman David Valdez; thus, constituting a quorum.

Personnel present: Gary Pelech, City Administrator; Dora V. Rodriguez, City Secretary; and Denise Duffy, City Accountant; Rob Flores, Police Chief; Barbara Moore, Library Director and Bobby Jack Rushing, Attorney (sitting in for Tom Cate, City Attorney).

Others present: Sandy Herrera, Devine News; James Armstrong, Medina Valley Times; Lance Elliott, TIF Financial Advisor; James McKnight of San Antonio; Keith Lutz; Jim Lawler and Sonia J. Lance, of Devine.

Mayor Herring, presiding, called the meeting to order. Mayor Herring also delivered the Invocation and led the Pledge of Allegiance.

The first order of business was to discuss and consider appointment of Board Members for the Tax Increment Reinvestment Zone Two.

Mayor Herring addressed City Council and explained they were going to be appointing all five city council members, the mayor, plus a representative from the County to serve on the Board. And he said we would like to recommend to the County Commissioners Court to appoint Jerry Beck to the Board also since he is the Precinct 4 County Commissioner.

Motion by Alderwoman Champion, seconded by Alderman Lance to appoint all five Council Members, the Mayor and to recommend to the County Commissioners Court to appoint Precinct 4 County Commissioner Jerry Beck also, as Board Members for the Tax Increment Reinvestment Zone Two.

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

Motion carried.

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The second order of business was to Recess the Council Meeting to have a Board Meeting.

At 6:05 p.m., Mayor Herring announced that the City Council would be taking a recess to have a Board Meeting.

Board Meeting:

Mr. Lance Elliott, TIF Financial Advisor, called the Board Meeting to order.

All council members were present with the exception of Alderman David Valdez from District 1, and it was noted that County Commissioner Jerry Beck, Pct. 4, has not been formally appointed yet to the Board; thus, constituting a quorum.

The first order of business was Citizens to be Heard.

No one spoke under this item.

The second order of business was the Election of a Secretary.

Mr. Elliott informed the TIF Board that the City Secretary would be taking the minutes, transcribing them, and then giving them to the Secretary of the Board to review and to sign.

The Board held discussion.

Motion by Board Member/Alderwoman Champion, seconded by Board Member/Alderman Lopez to appoint Board Member/Alderwoman Kathy Wilkins as Board Secretary of Tax Increment Reinvestment Zone Number Two, City of Devine.

Ayes	--	Four
Nays	--	None
Absent	--	One (Board Member/Alderman Valdez)

Motion carried.

The third order of business was a Briefing on Board of Directors Duties.

Mr. Lance Elliott informed the Board Members that their duties would strictly be as an oversight board to review what the City has done and to approve or disapprove, and to make sure that the City is staying on schedule. The City Administrator will make the decisions on what improvements will be done and at what time. The Board will meet annually to review what the City has done in the past year. If they have not complied with the finance and development plan, it will be pointed out

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and the City will only be reimbursed for those items from funds that were expended properly and that were approved for spending by the Zone. The plan can also be amended in the future.

The fourth order of business was Consideration and possible action on the City of Devine TIRZ # Two Final Finance and Development Plan.

Board Member/Mayor Herring read the resolution aloud. He said the City has not yet met with Judge Barden about the County's participation. Even though the resolution states participation at 100% in the Plan itself; both the City and the County are going to be coming in at 90% of what we are asking. Board Member/Mayor Herring stated that he just didn't know for sure if the County is coming in at a full 90%, and asked Mr. Elliott if the City could still pass this tonight with the possibility of having to re-do this again if they do not go with what we have.

Mr. Elliott agreed and explained that 100% at the M & O rate is about the same as 90% of the Total rate. He then went on to review with Council the Summary Fact Sheet, page 12 of the Final Project Plan and Financing Plan, and discussed the Project Budget on page 15 which explains what we will be spending the money on to help rebuild that area of the City.

Attorney Rushing (sitting in for City Attorney Tom Cate) inquired about eminent domain with the land acquisition. Mr. Elliott stated that the Tax Increment Reinvestment Zone does not have any eminent domain powers.

Motion by Board Member/Alderman Lance, seconded by Board Member/Alderwoman Wilkins to approve the City of Devine TIRZ #Two Final Finance and Development Plan as Resolution 4-13A.

Resolution 4-13A attached as Exhibit A.

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

Motion carried.

The fifth order of business was consideration and possible action on an Interlocal Agreement for the City of Devine TIRZ # Two by and between Medina County, the City of Devine and the Board of Directors City of Devine TIRZ # Two.

Mr. Elliott informed Council that this is the same Interlocal Agreement with some corrections that the County signed when we did the Devine Oaks Project. He then directed Council to corrections on Page 7 under Management of the Zone; the Zone Board shall be composed of 7 members instead of 6, and the City shall appoint 6 members, instead of 5. The Interlocal Agreement contains three parts: first you have the Interlocal Agreement, then Exhibit A-Map of the Zone, Exhibit B-

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Copy of the Final Finance and Development Plan, and Exhibit C-Ordinance 3-13 (the ordinance by which the Zone was created).

Board Member/Mayor Herring read the Interlocal Agreement which will be corrected from an ordinance to a resolution.

Motion by Board Member/Alderman Lopez, seconded by Board Member/Alderwoman Champion to approve the Interlocal Agreement for the City of Devine TIRZ # Two by and between Medina County, the City of Devine and the Board of Directors City of Devine TIRZ # Two as Resolution 4-13B.

Resolution 4-13B attached as Exhibit B.

Interlocal Agreement attached as Exhibit C.

Ayes	--	Four
Nays	--	None
Absent	--	One (Board Member/Alderman Valdez)

Motion carried.

The sixth order of business was the Current Status of the Project.

Mr. Lance Elliott informed the Board that we will be requesting an agenda item from the County Commissioners Court for Monday, April 22, 2013. He anticipates that everything will go well, and then that will complete the Zone because all parties will sign the Interlocal Agreement. He explained that this year, 2013, will then become the base year and 2014 will be first tax year in which taxes are generated that will be income for the zone. He said the idea is that by 2014 we want to have the city property on the tax roll so that we will be generating money for the Tax Increment Reinvestment Zone Fund in 2014. Mr. Elliott also reminded the Board that the acres belonging to the City have no value.

The seventh order of business was discussion and consideration for the next meeting date.

Mr. Elliott informed the Board that nothing will happen for the next two years so they only need to meet annually until then. He suggested meeting in March or April of next year and having a Board meeting for the first five to ten minutes prior to the regular council meeting, if the County accepts everything. In case the County does not, he said he would come to the next council meeting and ratify any changes.

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There being no further business to come before the Board, motion made by Board Member/Alderwoman Wilkins, seconded by Board Member/Alderman Lopez to adjourn the Board meeting.

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

Motion carried.

At 6:21 p.m., Mayor Herring closed the Board meeting and announced that we were now back to the Regular Council Meeting.

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

No one signed up to speak under this item.

The fourth order of business was Recognition.

Mayor Herring recognized and thanked the following:

- Director of Public Works Billy Grote and Superintendent of Public Works Ismael Carrillo and their crew for a great job in operating the water wells. He said the water lines to our Edwards Water Well had broken but they were able to monitor three wells without anybody ever knowing we were out of Edwards's water because these guys knew what they were doing, thanks to the expertise of Billy Grote, Director of Public Works.
- Hoover Construction Company for their quick response. We called them and they dropped what they were doing and came over with their machinery to help fix the water lines in record time.
- Wayne and Jean McBride for allowing us access to their property to get the water break fixed. They were very nice and cooperative, so a special thanks to them.
- Warhorses and Arabians, Colts and Fillies (both academic & athletic) – thanks and congratulations for everything that they've accomplished.
- Hal Lance was presented with a FEMA Certificate in recognition of his hard work, professionalism, and dedication servicing the citizens from the State of New Jersey recovering from tropical cyclone Sandy. Mayor Herring stated this is not the first for Alderman Lance; he also received certificates for Hurricane Wilma out of Naples, Florida in 2005; tornadoes and flooding in Iowa in 2008; Hurricane Ike in Galveston in 2008; Hurricane Irene in Vermont in 2012; and he also picked up 7 professional certificates for advanced training.

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The fifth order of business was to discuss and consider Approval of Minutes: Regular Council Meeting for March 19, 2013 and Special Meeting for March 21, 2013.

Council reviewed the minutes.

Motion by Alderman Lopez, seconded by Alderman Lance to Approve the Minutes for Regular Council Meeting for March 19, 2013 and Special Meeting for March 21, 2013.

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

Motion carried.

The sixth order of business was to discuss and consider adopting an Ordinance approving a Final Finance and Development Plan for the City of Devine Tax Increment Reinvestment Zone #2.

Mayor Herring read ordinance aloud.

Motion by Alderwoman Champion, seconded by Alderwoman Wilkins to adopt Ordinance 4-13C approving a Final Finance and Development Plan for the City of Devine Tax Increment Reinvestment Zone #2.

Ordinance 4-13C attached as Exhibit D.

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

Motion carried.

The seventh order of business was to discuss and consider adopting an Ordinance approving an Interlocal Agreement by and between the City of Devine, Medina County and the Board of Directors of the City of Devine Tax Increment Reinvestment Zone #2, City of Devine.

Mayor Herring read ordinance aloud.

Motion by Alderwoman Wilkins, seconded by Alderman Lance to adopt Ordinance 4-13D approving an Interlocal Agreement by and between the City of Devine, Medina County and the Board of Directors of the City of Devine Tax Increment Reinvestment Zone #2, City of Devine.

Ordinance 4-13D attached as Exhibit E.

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

Motion carried.

The eighth order of business was a Presentation by Keith Lutz concerning information and services for emergency preparedness and response.

Mayor Herring mentioned that we've talked about Code Red before which only covered the City of Devine; he said Mr. Keith Lutz' proposal will cover the entire County.

Mr. Keith Lutz, Emergency Management Coordinator and Fire Marshall for Medina County, presented City Council with a slide show presentation regarding a countywide mass notification system for emergency preparedness and response. He stated that this program is paid for through the REPAC committee at AACOG, which is the Regional Emergency Preparedness Action Committee. He explained it is grant monies but the committee saw this as something that would work really well in rural areas so they funded this technology to be able to do mass notifications.

Beyond the mass notification, the City of Devine could input all of their personnel and then from City Hall, could send a message to Public Works or other departments. It has a credentialing and identification and badge system; something he is very interested in getting countywide.

Mr. Lutz explained some of the slides, showing what can be done with this system. Beyond mass notification, the system also has Appointment & Clinic Management; Asset Management & Mutual Aid; Donation & Volunteer Management; Automated Reminders; Weather Notices; and Evacuation Tracking, to name a few. However, he is focusing more on the mass notification by e-mailing or texting. As he explained the different slides and screens, he told Council that if we go with this system, we can use our own logo, and we can also select which notifications we want to know about. The biggest advantage to this system, according to Mr. Lutz, is that the County would be able to get everyone on the same page on just one site and the information would be shared countywide and city-to-city. And, he told Council, that the system is available right now and reminded them that it is paid through AACOG.

Brief discussion was held on different types of licenses and cost to the City in the event that the REPAC committee at AACOG was to quit funding. AACOG is paying \$2,100.00 right now so it would cost the City \$2,100.00 plus \$300.00/year to bank voice minutes. So if AACOG were to quit funding, it would cost the City \$2,400.00/year.

City Administrator Gary Pelech inquired on what needs to happen now in order for us to be a part of this. Mr. Lutz responded that basically we just need to decide that this is the route we want to go and then get with Joe Abrams with I-Info to get the system set up and customized to what we want. Then we need to start advertising to get people to start registering.

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Chief Flores informed Council that he and Wesley had previously attended a meeting, and that is why Devine is showing on the system now. It wasn't presented in the same way at that time but he is all for it and hopes we can get on board with it now.

Council held discussion and agreed it is a good idea, and thanked Mr. Keith Lutz for his presentation.

The ninth order of business was to discuss and consider accepting bid for repair to the Library Wall.

Mayor Herring informed Council that Mr. Michael Franks with CRP has come down to look at the Library Wall, along with himself, Gary, and Dora and they have also gone over his proposal with Raul Garcia, our City Engineer. Mr. Franks did the brick work to the Community Center back in 1987.

City Council reviewed Mr. Frank's proposal and diagram. Mayor Herring said he likes what he's saying about the plates and thinks he has a great idea, but he wants to table this item because he doesn't understand a number of things such as who the certified welder is (if he's bonded); he doesn't understand what he means by barracks & signs; or who the Engineer of Hondo is, and we need to have a certified structural engineer to sign off on this. He said we've had several engineers come down and say "I think it's not going to fall," but they don't want to sign off on anything. So we need a lot of answers.

City Administrator Gary Pelech said what he would like is to get authorization to allow him to negotiate with Mr. Franks to get this done and get some answers to avoid having to put this off for another meeting since the Library would need to be closed for one week.

Attorney Rushing informed Council that it's alright for them to give Gary authority to allow him to negotiate and set some parameters, but it would need to come back before Council for final approval.

Motion by Alderman Lance, seconded by Alderman Lopez to table this item until we have some answers and more information.

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

Motion carried.

Motion by Alderwoman Wilkins, seconded by Alderwoman Champion to give City Administrator Gary Pelech the authority to negotiate the bid for the repair of the Library Wall with Mr. Michael Franks and to come back before City Council for final approval.

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

Motion carried.

The tenth order of business was to discuss and consider adopting an Ordinance to regulate Game Rooms.

Mayor Herring informed Council that this was Alderwoman Champion's idea and directed them to review ordinances from four different cities which City Secretary Dora V. Rodriguez had provided in their council packet. He asked them to look them over and decide which ones they would like to submit to Attorney Rushing so he can finalize an ordinance for us.

Council reviewed the different ordinances.

Alderwoman Wilkins commented that after reviewing all of them, she felt that the ordinance from the City of Pleasanton was the best one and was more detailed in what we would require. She did make notes of some things she would like added. She referred Council to the third page of the Pleasanton Ordinance, Section 2: Limit of Permits Allowed. She told Council that she personally would like to limit it to no more than five (5). She said the City of Pleasanton has a population of over 9,000 and Devine is a smaller community. The other change was to Section 5: Business Locations Restrictions and Relocation requirements. Alderwoman Champion feels that 1000 feet would be more appropriate which is in accordance with what TABC requires with liquor law, so she feels this would apply also to the gaming.

Alderwoman Champion told Council she had also conferred with her husband, Chris Champion, County Chief Deputy, whom she said is very familiar with the penal code and gambling statute. He suggested to her that it would be wise to add something to the effect that any property owners, managers or operators convicted of a felony not be allowed to operate a game room convicted of such after a permit has been issued. The permit can be pulled and canceled. She told Council that she personally feels that our police department needs to familiarize themselves with this gambling statute. She said it's something serious that they need to start investigating. She's heard lots of rumors, but she has no proof, just people telling her that people are winning money at these places and they are taking home large amounts of money but nothing has been done about it, and they're wondering why. She feels our police department needs to (from the top down to the bottom) be familiar with these so they can regulate them and we don't have to depend on outside agencies to take over these investigations to help them out. They should be able to do this themselves; it's what we pay them for.

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Councilwoman Wilkins asked how many game rooms we have in Devine right now and what the locations were. Alderwoman Champion responded that we have five (5) and the locations are at 205 SH 132 N; 203 College Avenue, Suite C; 301 Briscoe; 117 Colonial Parkway; and 400 Transportation Drive; two of which we don't know who the business owner is.

Mayor Herring stated that Police Chief Rob Flores would have his turn to comment on this. He informed Council that there would be no action taken on this because we have to write the ordinance first. He told Alderwoman Champion that he appreciated her interest in this and that it was a good idea, and then instructed her to later get with Attorney Rushing so he can come up with a final ordinance that could be brought back at the next meeting or at a special meeting.

Mayor Herring then asked Police Chief Flores if he wanted to comment. Chief Flores responded that he did not; not in open session.

Motion by Alderwoman Champion, seconded by Alderman Lance to table this item until we have an ordinance regulating game rooms.

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

Motion carried.

The eleventh order of business was to discuss and consider adopting a proposed Drilling Ordinance.

Mayor Herring welcomed Mr. James McKnight for coming and stated that we have an ordinance regulating just about everything in Devine. He said that we have one for regulating the drilling of water wells but we don't have one for the regulation of oil & gas. And, with the Eagle Ford Shale development, we need one in place, not to drill but to regulate.

Mayor Herring then read the ordinance aloud.

Mr. James McKnight simply stated that he would answer any questions if Council had any.

Attorney Rushing stated that he knew City Attorney Tom Cate had looked at this and he was comfortable with it. Then he inquired about any penalties; he said he didn't see any. He said we need to be aware that the enforcement mechanism on something like this would have to actually institute some kind of a lawsuit and seek conjunctive relief unless there was something else. Mr. McKnight told Council that they had talked about penalties at the end of this section but explained that it seemed too complicated to him to have somebody stop when they actually wanted to drill, and they pay \$500.00 to do this. Attorney Rushing added that the civil remedy would be to have some kind of conjunctive relief.

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Motion by Alderwoman Wilkins, seconded by Alderwoman Champion to adopt Drilling Ordinance 4-13.

Ordinance 4-13 attached as Exhibit F.

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

Motion carried.

The twelfth order of business was to discuss and consider recommendation of the Planning & Zoning Commission for Meeting held on April 18, 2013:

- a. Variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

Mayor Herring stated that (a.) and (b.) of this item have come up before Council a couple of times but no one has shown up for the meetings. P&Z denied the variances for both (a.) and (b.). He said Council didn't understand it and no one showed up at both meetings to explain why they need a variance when there is a huge field behind this house, that if you move the property line back just 2.1 feet, they could pick up the 9000 sq. ft. which our ordinance requires

P & Z Commissioner Jim Lawler who was present at the meeting informed City Council that was it; he said they didn't have all of the information and they didn't feel comfortable approving it.

Motion by Alderman Lopez, seconded by Alderwoman Champion to deny variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

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

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Motion carried.

Mayor Herring added that if they want to further this request, they will need to go back to Planning & Zoning. He said he doesn't feel that Council should override Planning & Zoning on this; they do a great job.

- b. Variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact, for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

Motion by Alderman Lopez, seconded by Alderwoman Wilkins to deny variance request made by Deutsche Bank National Trust Company as trustee for Novastar Mortgage Funding Trust Series 2007-1 Novastar Home Equity Loan Asset-Backed Certificates, Series 2007-1, by Ocwen Loan Servicing, LLC as Attorney-in-Fact, for a variance to Article 3, Section 3 (Area Regulation), of the Zoning Ordinance which requires a rear yard to have a depth of not less than 20-percent of the average depth of the lot to allow an existing house to encroach of 2.1 feet into said rear yard as specified on a preliminary plat of the Carrillo Subdivision as prepared by Charles W. Rothe, Registered Land Surveyor.

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

Motion carried.

The thirteenth order of business was to Review Investment Report.

Council reviewed report.

There were no comments from anyone.

The fourteenth order of business was Informational Items.

Mayor Herring went over a few informational items and updates; namely:

- The City will be leasing a street sweeper a couple times a year. Mrs. Lance told Council that the Garden Club is requesting leaves for the mulch that they use for the four corners.

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- There will be a public meeting at City Hall on Thursday, April 18, 2013 at 10 – 11:30 for citizens and business people to discuss our City Master Plan. It is open to the public but invitations were sent out.
- A Chamber Meeting will follow at 12:00 Noon on Thursday, April 18th at City Hall.
- There will also be a countywide quarterly meeting on Thursday, April 18th at 6:00 p.m. at Natalia City Hall.
- There will be a City Council special meeting this Friday at 12:00 Noon. This will be with the same person presenting the City Master Plan but it will be for Council to hold discussion and for any questions to be answered.
- The cleanup of the Whitfield property is going well and should be completed soon; the house has already been knocked down. Bobby Baker and his crew are doing a great job.
- Also the house on Windy Knoll; Rick Campsey already has it knocked down. Then we'll worry about the Briscoe house.
- Early voting starts April 29th thru May 7th. Regular city hall hours will be 8:00 a.m. to 5:00 p.m., except for the last two days when hours will be extended from 7:00 a.m. to 7:00 p.m. This year we have a City Council race for District 5, and we have two races with the Devine ISD School Board; one for school district 2 and one at-large.
- Spring Cleanup is April 22nd. Everything should be out already.
- Relay for life will be on April 26th at the Medina Valley High School track.
- Our well remediation at the well yard is very close to being completed. John Barron with Alamo-1 has been doing a great job on that.
- The Community Center's kitchen has been rewired; we've taken down the two small ceiling fans and put a big ceiling fan in the center and brought it down real low, and put three more fans on each side for a total of 7 ceiling fans; we are going to repaint soon and strip and wax the floors.
- Mayor Herring thanked Attorney Rushing for stepping in for Tom Cate, City Attorney, while he is out on vacation.

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

Mayor

City Secretary