

**Minutes
Regular Meeting
April 21, 2009**

On this 21st day of April, 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 Frank Cortez, III
Alderman David Espinosa
Alderman Hal Lance
Alderwoman Marina M. Antu

Absent being Alderman John Ramirez; 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; and Barbara Moore, Library Director.

Others present: Sandy Herrera – Devine News; Jose Velasco, San Antonio Texas; Juan Camacho-Bernice Hunter Realty, Ron & Jane Harrison, Albert Obaya, Ernest Ruston, Charles M. Burja, Becky Estrada, and Sonia J. Lance.

Mayor Pro-Tem Frank Cortez, III, presiding, declared the meeting opened and welcomed all visitors. City Attorney Tom Cate delivered the Invocation; Mayor Pro-Tem Frank Cortez, III, 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 approval of Minutes for Special Meeting March 10, 2009; Regular Meeting March 17, 2009; and Special Meeting April 7, 2009.

City Council reviewed minutes.

Motioned by Alderman Lance, seconded by Alderman Espinosa to approve the minutes for Special Meeting March 10, 2009; Regular Meeting March 17, 2009; and Special Meeting April 7, 2009.

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

Motion carried.

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The third order of business was to discuss and consider request made by Mr. Jose Velasco to receive utilities for the Paradigm Subdivision Lot 1 Acres .0223 and Lot 2 (Part of) Acres 1.53.

Mr. Juan Camacho of Bernice Hunter Realty addressed City Council and stated that his client, Mr. Velasco, is looking at either doing a restaurant or building town homes but is leaning more towards the town homes. City Council reviewed map along with Director of Public Works Billy Grote and Superintendent of Public Works Ismael Carrillo to discuss the placement of utilities. According to Billy and Ismael, we need to extend our lines by 80 feet to get to his property; everything should be available, water, sewer & gas. Discussion was held on the zoning of the property. City Administrator Dora V. Rodriguez told Council that if it's already zoned for business, they do not have to come before the Planning & Zoning Commission.

Mr. Juan Camacho told Council that their main concern whether using city water or going with Benton City Water is that part of the building is outside the corporate city limits of Devine. City Attorney Tom Cate inquired about our area of CCN. He said if that they are within our CCN, we are obligated to provide them water. After further reviewing map, City Attorney Tom Cate stated that he was not sure if it is in our CCN; the map shows that it is not.

Discussion was held on annexation. City Attorney Tom Cate told Council that would probably be the best thing and asked if they would be in agreement to voluntary annexation. Mr. Camacho stated that he would need to talk to his client but that he was sure this would be something he would be willing to consider. City Administrator Dora V. Rodriguez mentioned that the extension of customer's utilities is done at the customer's expense according to our ordinance. She further stated that the annexation process is a very lengthy process which takes about a year's time to complete. Mr. Camacho said he would be discussing this further with Mr. Velasco as he wants to discuss it with his family, and they will come back before Council.

Motioned by Alderman Lance, seconded by Alderwoman Antu to table request made by Mr. Jose Velasco to receive utilities for the Paradigm Subdivision Lot 1 Acres .0223 and Lot 2 (Part of) Acres 1.53.

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

Motion carried.

The fourth order of business was to discuss and consider dispute by Ms. Becky Estrada over Water Main Break and Invoice for 312 Fox Run.

At 8:05 p.m., Mayor Pro-Tem Frank Cortez, III announced to the public that the Council would go into a Closed Session Pursuant to Provision of the Open Meeting Law §551.071, Consultation with Attorney. At 8:15 p.m., Closed Session was opened to the public.

No action was taken in Closed Session.

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

Motioned by Alderman Lance to bill Ms. Becky Estrada for \$234.68 for the water loss only and not to bill her for the labor incurred by the City.

No one seconded the motion; motion died.

Motioned by Alderman Espinosa, seconded by Alderwoman Antu to relieve Ms. Becky Estrada of any debts and to have the City pay for the entire bill.

Ayes	--	Three
Nays	--	One (Alderman Lance)
Absent	--	One (Alderman Ramirez)

Motion carried.

The sixth order of business was to discuss and consider Streets to be Resurfaced/Seal Coated.

City Council reviewed list of streets and held discussion over which streets they each wanted resurfaced. City Accountant Nancy Pepper informed Council that after the amendments, the budget is set at \$110,000.00 for Streets. Alderman Cortez suggested that we do all the dirt roads first. Alderman Espinosa stated that he was reluctant to add McAnelly to the list because of future work that may be done in that area.

City Administrator Dora V. Rodriguez informed Council that she received a phone call from someone who lives on McAnelly who has a health problem and complained that anytime we do any type of street work with asphalt, it affects her. She also informed Council of several other calls she's received. One was from someone wanting Webb taken care of (at the dead end). Director of Public Works Billy Grote said he will add this road to the list and will get the cost figures on this section of Webb (from Ross to dead end) for City Council to review. The other calls received have been on the bad sections of Colonial Parkway, which are included on the list. Alderman Lance stated he wants Colonial Parkway (from Hwy. 132 to Libold) resurfaced but stated that the dirt roads should be taken care of first, if we want to progress as a city.

Comments were heard from the public wanting all of Colonial Parkway done. They stated they wanted it done right and not just in sections. Discussion was held on the condition of the streets; the more you let the streets deteriorate, the more it will cost the city to repair them.

Alderman Cortez talked about doing Crouch Street but also discussed the drainage problem. He suggested paving Crouch, from Libold to Parker only. Alderman Espinosa stated he also wanted to add Zig Zag to the list (from the Projects to city limits).

Superintendent of Public Works Ismael Carrillo summarized the list of streets requested by Council to be considered for paving as: Crouch – from Libold to Parker, Zig Zag – Projects to city limits,

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Webb – Ross to dead end, and Colonial Parkway – Oakridge to Libold and Libold to Monticello; plus all the dirt roads. Discussion was held on tabling this item until Public Works can get all the cost figures in for City Council to review.

Motioned by Alderman Lance, seconded by Alderman Espinosa to table this item pending further information from Director of Public Works Billy Grote and Superintendent of Public Works Ismael Carrillo on cost figures.

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

Motion carried.

The seventh order of business was to discuss and consider approving the Public Utility Commission of Texas 2009 Consumer Price Index Adjustment to Municipal Telecommunications Right-of-Way Access Line Rates.

City Attorney Tom Cate explained to Council that we normally decline the default rate so that the rate will remain the same at \$1.08 and will not increase to \$1.13. He said this time we would want to accept the default rate for 2009 as follows: To accept the default rate in Section 2, as shown in Exhibit A, no action is required.

Motioned by Alderman Lance, seconded by Alderwoman Antu to accept the default rate of \$1.08 in Section 2 of the 2009 Consumer Price Index (CPI) Adjustment to Municipal Telecommunications Right-of-Way Access Line Rates.

CPI Adjusted Maximum Rates attached as Exhibit A.

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

Motion carried.

The eighth order of business was to discuss and consider approval for the Library to purchase a Wireless Gateway Controller.

Director of Public Works Barbara Moore addressed City Council about purchasing a Wireless Gateway Controller which will provide guests instant internet access while keeping the Library's network secure. She told Council that with this new equipment, it will give the Library a chance to put up a disclaimer that users will have to agree to the Library Internet Policy. It will improve security for people who are using the wireless internet; and it will increase the capacity of the wireless router. The cost of the Guest Gateway is \$400.00 plus another \$125.00 to get another wireless access point recommended by her computer technician, for a total of \$525.00 altogether,

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including the labor. This will also benefit the people who park in the Library parking lot who use the internet.

Motioned by Alderman Espinosa, seconded by Alderman Lance to approve for the Library to purchase a Wireless Gateway Controller and Wireless Access Point, and to amend the budget.

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

Motion carried.

The ninth order of business was to discuss and consider Tennis Court cost changes for paving the parking lot.

Council reviewed the new corrected figures which includes everything. City Accountant Nancy Pepper explained that there is already a line item for Street Paving Material in the budget for \$4,700.00 because they had already voted on doing some of the paving. She informed Council that the School had voted on it last night and everything is good to go. The total material and labor for the City and School is \$12,322.00 (\$6,161.00 being the City's half and \$6,161.00 being the School's half).

Motioned by Alderman Espinosa, seconded by Alderwoman Antu to accept the Tennis Court cost changes for paving the parking lot of \$6,161.00 for the City and \$6,161.00 for the School for a total of \$12,322.00 for the material and labor.

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

Motion carried.

The tenth order of business was to discuss and consider recommendation of the Planning and Zoning Commission for Meeting held on April 6, 2009 on the following:

- a. Request made by Raphael Rodriguez to grant a variance of ten feet to the front setback of 507 Griffin Drive, described as Hattox, Block 6 (NCB 156), Lots 5 & Part of 6, for future addition to a one-family dwelling.

Alderman Espinosa stated that he had gone to meet with Mr. Rodriguez. He told Council that Mr. Rodriguez is trying to make improvements for his house and his family which is a benefit to the City and stated that he recommends that we accept P&Z's approval.

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Motioned by Alderman Espinosa, seconded by Alderman Lance to approve Planning & Zoning's recommendation to grant Mr. Rodriguez a variance of ten feet to the front setback of 507 Griffin Drive, described as Hattox, Block 6 (NCB 156), Lots 5 & Part of 6, for future addition to a one-family dwelling.

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

Motion carried.

- b. Request made by Ronald Harrison regarding obtaining a written notice that the current operation of firearm manufacturing and sales shop at 510 Wedgewood Way, described as Colonial Oaks, Block 15 (NCB 164), Lot 8, is an approved conditional use for the current owner as required for renewal of a Federal Firearms License by the Bureau of Alcohol, Tobacco and Firearms.

Council held discussion as to who would be doing this letter; the police chief or the city attorney. Chief Flores stated he did not have any problems with Mr. Harrison, and suggested calling the BATF agent to find out exactly what they need in this letter. Discussion was held that all Mr. Harrison needs is a letter stating that both the City and the Police Department have knowledge of his gun shop operation and that they don't have a problem with it.

Motioned by Alderman Lance, seconded by Alderman Espinosa to approve giving a written notice to the Bureau of Alcohol, Tobacco and Firearms, which is required for the renewal of a Federal Firearms License for Ronald Harrison regarding his gun shop operation at 510 Wedgewood Way.

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

Motion carried.

- c. Request made by Dora V. Rodriguez to grant a variance to the required utility easement for subdividing and platting property located at 808 Windy Knoll Drive N., described as A1039 F. Winans Survey 3, Block NCB 104, 0.487 acres, into two lots.

Motioned by Alderwoman Antu, seconded by Alderman Lance to approve P&Z's recommendation to grant a variance to the required utility easement for subdividing and platting property located at 808 Windy Knoll Drive N., described as A1039 F. Winans Survey 3, Block NCB 104, 0.487 acres, into two lots.

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

Motion carried.

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The eleventh order of business was to discuss and consider approving the Proposed Amended Budget for the Year Ending September 30, 2009

City Accountant Nancy Pepper explained to Council that she had left off two items from the Amended Budget that she had provided in their Council packets. The first item was for Police Equipment - \$15,000.00 – to increase the expense line for Birch Foundation funds. She said this amendment would increase the Police Department budget to \$611,940.00. The second item amendment was for Health & Sanitation (Capital Outlay) - \$2,500.00 – for additional funds needed to finish the animal shelter. She said this would make a total of \$7,000.00 in funds for the animal shelter improvements, and bring the total Capital Outlay for the General Fund to \$71,475.00. These two amendments will increase the total projected budget deficit in the General Fund to \$133,593.00.

Ms. Pepper told Council that the General Fund is getting a hefty hit and quoted from Financial Advisor Phil Sagebiel to “call a halt!” He wants Council to stop any additional spending to keep it below \$136,000.00 deficit for this year.

City Administrator Dora V. Rodriguez emphasized that Council needs to be very careful in giving out any contributions. Discussion was held on the department heads doing very well and holding up on their own with their budgets.

City Accountant Nancy Pepper also discussed the Gas Department. She explained that this department always comes in well under budget. She said they are doing okay with their cash flow but one area that is bringing their budget up is the purchase of the gas meters which Council approved. According to Ms. Pepper, most of Raul’s projects are paid with bond money; however, it didn’t leave enough funds to pay for the gas meters. She talked about Raul’s engineering costs at \$25,000.00 which took all of the bond money and we had to go into the regular funds.

Lengthy discussion was held on engineering projects and costs.

City Accountant Nancy Pepper told Council that the Sewer and Water Funds are doing great. She said the bottom line is that we need to tighten our belts, and said she would love to see us come in under \$100,000.00 deficit.

Motioned by Alderman Lance, seconded by Alderwoman Antu to accept the Proposed Amended Budget for the Year Ending September 30, 2009.

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

Motion carried.

The twelfth order of business was to discuss and review the Quarterly Investment Report.

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City Accountant Nancy Pepper discussed the Quarterly Investment Report for the quarter ending March 31, 2009 with City Council. One of the main things she pointed out was that the average return for March 2009 is at .80%. It dropped from 1.45% at the end of December 2008. She told Council that the interest has been really bad yet we still have over \$1,000,000.00 in the Lone Star Sewer & Water Fund; over \$400,000.00 in the General Fund; even the Gas Fund had over \$132,000.00. She also held discussion on the CD investments at the Bank of Texas and Medina Valley State Bank.

This was for review only.

The thirteenth order of business was to discuss Emergency Management Update.

Police Chief Rob Flores addressed City Council and talked about a Homeland Security Conference which he attended. He said it was a very good and informative conference because it covered a lot of aspects about the City, including Public Works. He said they had classes for basically every department. He told Council that overall Texas is doing very well as far as homeland security; however, there is always room for change or improvement. He mentioned communication being a big issue especially between the City and the County. Chief Flores also talked about infrastructure targets in the City such as sewer plants, water towers and well yards.

Border issues were another topic of discussion. Chief Flores stated that IH-35 is having a lot of human trafficking and smuggling of illegals happening every day. His main concern with chases is to keep them on the highway and out of the City. He said the southbound traffic seems to be guns & firearms and the northbound traffic is more human trafficking and illegals, so all these things are passing through Devine. Chief Flores said this conference basically confirmed what we already know. He told Council that he wants to work with other agencies around here so we can all get on the same page.

The fourteenth order of business was 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. §551.072 – Deliberation of Real Property – Tax Sale – Ehlinger Property.

At 8:40 p.m., Mayor Pro-Tem Frank Cortez, III, 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 fifteenth 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 sixteenth order of business was the Reports, namely:

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- City Secretary's Report – City Council reviewed report.
- City Treasurer's Report – City Council reviewed report.
- Public Works – Director of Public Works Billy Grote reported that we are not yet in Stage I but we are getting close. He explained the Edwards Aquifer is at 663 ft. and it has to be at 660 ft. for 10 consecutive days before we get a letter notification from the Edwards Aquifer.
- Police Department – Police Chief Rob Flores reported that earlier today they had recovered a stolen vehicle. He also reported that he had assisted the Chief of Police from Natalia and one other fireman before their Fire Dept. showed up. There was a house fire on SH-132 in Natalia.
- Driscoll Public Library – Library Director Barbara Moore reminded everyone about the free Town Hall for Hope with Dave Ramsey on Thursday, April 23rd at 7:00 p.m.; the doors will open at 6:15 p.m.
- Chamber of Commerce – Council reviewed copies of the receipts from the Fall Festival.

The seventeenth order of business was Information Items.

- a. TML Regional 7 Meeting on April 30, 2009

City Administrator Dora V. Rodriguez reminded City Council that we needed a head count of who would be attending this meeting. She received an RSVP from all the Council that they would be attending.

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

Mayor Pro-Tem

City Secretary