

**Minutes  
Special Council Meeting  
June 11, 2013**

On this 11<sup>th</sup> day of June 2013, at 6:00 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 being present:

Mayor William L. Herring  
Alderman Hal Lance  
Aldерwoman Kathy Wilkins  
Aldерwoman Gina Champion

Absent being: Alderman Steve A. Lopez and Alderman David Valdez; thus, constituting a quorum.

Personnel present: Gary L. Pelech, City Administrator; Dora V. Rodriguez, City Secretary; Ofilia Pedroza, Asst. City Secretary; and Tom Cate, City Attorney.

Others present: Ira C. & Donna K. Keown, Bobby Dominguez, Janie Balderrama, Esmeralda Esquivel, Joe & Adelina Robles, Gloria Lopez, Charles Cupp, P. DeLeon, Mike Perez, Jesse & Diana Esparza, all of Devine, Texas.

Mayor Herring, presiding, declared the meeting open.

The first order of business was a **Public Hearing**:

Mayor Herring declared the Public Hearing open to the public at 6:02 p.m. He explained that Council would not be able to answer any questions tonight. They were only allowed to listen to their comments and/or concerns, and they would be able to address them at our next regular council meeting on June 25, 2013.

- a. Amending Code of Ordinance Chapter 66 – Article II. Unsanitary or unsightly conditions on private property.

Mr. Charles Cupp inquired as to how this new ordinance that the city is proposing differs from the old one we have now. City Attorney Tom Cate informed him that it doesn't differ that much; it just brings the ordinance up to speed and fine tunes it. He explained that small changes are made every time that the Legislature meets, and, so we have to incorporate those changes into our ordinances, to make sure we're in compliance with the state law, but basically it's the same ordinance.

Mr. Cupp then asked Council if they intended to enforce these ordinances. Mayor Herring responded that we always enforce our ordinances. Mr. Cupp came back with "No you don't! Don't tell me that; I know better."

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Mayor Herring asked if there were any other comments from anyone. There were no more comments from the public.

b. Amending Code of Ordinance Chapter 66 – Article III. Junked Vehicles.

Mayor Herring allowed time for the public to look over the ordinance. He then asked for any comments from the public on the ordinance for junked vehicles.

Mr. Porfirio DeLeon commented that there are a lot (and he stressed “a lot”) of junked vehicles in Devine. No other comments were made.

- c. Creating an ordinance regulating coin-operated machines in the City of Devine; providing for an occupation tax on coin-operated machines; providing for the sealing and release of coin-operated machines in the event the occupation tax is not paid; restricting the location of coin-operated machines; providing for the repeal of conflicting ordinances; and, providing for a severability clause.

Mayor Herring read part of the ordinance out loud and asked for any comments from the floor.

Mr. Ira C. Keown, representing Devine VFW 3966, told Council that their reason for coming tonight was to request an exemption from the occupation tax. He gave Council copies of documents to review supporting that they are a benevolent and public charitable organization under section 501(c)(3) of the Internal Revenue Code.

Mayor Herring thanked them for the documentation and stated that their concerns and comments were noted. He then asked for other comments.

Mr. Joe Robles commented that he has coin-operated machines and inquired as to how much tax he would need to pay. He was told it was all spelled out in the ordinance. He was told that if he couldn't find it, he could come back in two weeks when Council would be able to fully reply to his concerns. He also commented that he doesn't pay cash but wanted to know if he could give out Wal-Mart Gift Cards.

Mayor Herring thanked him for his comments, and then asked for any more comments from the public.

Mr. Jesse Esparza then commented about some game rooms being shut down and wondered why one particular game room was not shut down. He asked if these coin-operated machines were illegal machines.

City Attorney Tom Cate explained that this ordinance doesn't define what is legal or illegal. He said that definition is contained in State Law; not in this ordinance. This ordinance just applies to

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machines that have been deemed legal and to which this Texas Occupation Tax applies already. He explained that if there are any illegal machines, they should be shut down. As far as why the game rooms were shut down and one wasn't and whether they were illegal machines, City Attorney Tom Cate told Mr. Esparza that he couldn't answer that and that he should contact the Sheriff to answer that.

More discussion was held from the public on the legality of the machines. Mr. Jesse Esparza inquired whether the machines required a sticker from the City of Devine.

He was told "No," and according to City Attorney Tom Cate, if you are taxed by the State on your machines (and he's assuming that the State has made the determination that it is legal), then this ordinance is saying that the City is going to tax you, and that's it. Mr. Cate suggested that they contact the Sheriff's office in Hondo to try to get some answers.

Mr. Esparza asked who he could talk to above the Sheriff. He was told to contact the Judge, Commissioner, or even the County or District Attorney.

Going back to the Unsanitary Ordinance, Mr. Porfirio De Leon asked for the definition of "unsanitary" and discussion was held on that. He also asked if we could bring the Animal Control Ordinance back on the agenda. Mary Herring told him we could do that but he needed to come in to the office to complete a form for that request.

There were no further comments from the public.

Mayor Herring then thanked everyone for coming. He informed the public that all of this will be on the agenda in two weeks and Council will be able to answer any questions at that time, as well as our attorney.

At 6:25 p.m., Mayor Herring closed the public hearing.

Motion by Alderwoman Champion, seconded by Alderwoman Wilkins to close the public hearing.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

The second order of business was to discuss and consider Rescinding Motion Approving the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Avenue

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E; 697 Hondo Avenue E; 691 Hondo Avenue E; Hondo Avenue E (R56809) and the creation of a Final Report for presentation to City Council.

Motion by Alderman Lance, seconded by Alderwoman Wilkins to Rescind Motion Approving the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Avenue E; 697 Hondo Avenue E; 691 Hondo Avenue E; Hondo Avenue E (R56809) and the creation of a Final Report for presentation to City Council.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

The third order of business was to discuss and consider Approving the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Avenue E; 697 Hondo Avenue E; 691 Hondo Avenue E; Hondo Avenue E (R56809) and the creation of a Final Report for presentation to City Council.

Motion by Alderwoman Wilkins, seconded by Alderwoman Champion to Approve the Preliminary Report for changing the zoning classification of property consisting of approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: 1009 Hondo Avenue E; 697 Hondo Avenue E; 691 Hondo Avenue E; Hondo Avenue E (R56809) and the creation of a Final Report for presentation to City Council.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

The fourth order of business was to discuss and consider Rescinding Motion to Adopt an Ordinance for the Zone Changed of Property described as approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine.

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Motion by Alderwoman Champion, seconded by Alderman Lance to Rescind Motion to Adopt an Ordinance for the Zone Changed of Property described as approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

The fifth order of business was to discuss and consider Adopting an Ordinance for the Zone Changed of Property described as approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine.

Motion by Alderwoman Wilkins, seconded by Alderman Lance to Adopt an Ordinance for the Zone Changed of Property described as approximately 19 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

The sixth order of business was to discuss and consider Adopting an Ordinance for the Zone Changed of Property described as approximately 20 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: Hondo Avenue E. (R58416)

Motion by Alderwoman Champion, seconded by Alderwoman Wilkins to Adopt an Ordinance for the Zone Changed of Property described as approximately 20 acres of land located along the north side of Hondo Avenue E. in the area of IH-35 in the City of Devine, from Class A. Single Family Residence District to Class H. Commercial Business District, which is proposed to include any or all properties with the following addresses: Hondo Avenue E. (R58416)

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

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There being no further business to discuss, motion made by Alderman Lance, seconded by Alderwoman Wilkins to adjourn meeting.

Ayes	--	Three
Nays	--	None
Absent	--	Two (Aldermen Lopez, Valdez)

Motion carried.

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Mayor

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City Secretary