

**Minutes**  
**Regular Council Meeting**  
**June 21, 2011**

On this 21<sup>st</sup> day of June 2011, 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  
Alderwoman Marina Antu  
Alderman Hal Lance  
Alderwoman Kathy Wilkins  
Alderwoman Gina Champion  
Alderman Steve A. Lopez

Thus, constituting a quorum.

Personnel present: Gary Pelech, City Administrator; Dora V. Rodriguez, City Secretary; Nancy Pepper, City Accountant; Darrell Rawlings, Code Compliance Officer and Chris Andrews, Police Department.

Others present: Dave & Betty Morgan, 413 Monticello, Devine; Craig & Lynda Mikalenka, 901 Windy Knoll, Devine; Ramona & Waldo Gallegos, 711 Fay, Devine; Tina Wilburn, 715 Fay, Devine; Sonia Lance, 217 Malone, Devine; Louisa Garcia, 713 Fay, Devine; Ed Dougherty, Zoning Commissioner; Onis Wiemers, Zoning Commissioner and Sandy Herrera, Devine News.

Mayor Herring, presiding, declared the meeting opened and welcomed all visitors; Mayor Herring also delivered the Invocation and led the Pledge of Allegiance.

The first order of business was the Visitors/Citizens Forum. There was no one to speak under this forum.

The second order of business was Presentation of Plaque. This item was tabled for a later date.

The third order of business was to discuss and consider adopting a Proclamation in the support of the Maquette of the Vietnam War Monument to be built on the Texas Capitol grounds.

Proclamation attached as Exhibit A.

**Regular Meeting Minutes**

**June 21, 2011**

**Page 2**

Motion by Alderman Lopez, seconded by Alderwoman Antu to adopt Proclamation in the support of the Maquette of the Vietnam War Monument to be built on the Texas Capitol grounds.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

The fourth order of business was to discuss and consider adopting a Proclamation of July as Fair Housing Month.

Proclamation attached as Exhibit B.

Motion by Alderwoman Champion, seconded by Alderwoman Wilkins to adopt Proclamation of July as Fair Housing Month.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

The fifth order of business was to discuss and consider the approval of the minutes.

Motion by Alderwoman Antu, seconded by Alderwoman Champion to approve the Regular Meeting Minutes of May 17, 2011.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

**Regular Meeting Minutes**

**June 21, 2011**

**Page 3**

The sixth order of business was to discuss and consider appointing a new Mayor Pro-Tem.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to appoint Alderwoman Marina Antu as Mayor Pro-Tem.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

The seventh order of business was to discuss and consider Council Appointments.

Council Appointments attached as Exhibit C.

Motion by Alderman Lopez, seconded by Alderwoman Wilkins to approve Council Appointments.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

The eighth order of business was to discuss and consider recommendation from the Planning and Zoning Commission Meeting held on June 20, 2011 and for Council to hold a Public Hearing on the following:

- a. Request made by Misty Thompson on behalf of William Dorfmeister to approve submitted subdivision plats for the proposed Riverway One Subdivision, which will subdivide property described as A0714 F. Niggli Survey 2, Block NCB 103, 1.382 acres, and located along Fay Avenue, into five lots, with deed restrictions/protective covenants, which would include changing the zoning classification of this property to be assigned from Class A. Single Family Residence District to Class D. Two-Family Residential District.

## **Regular Meeting Minutes**

**June 21, 2011**

**Page 4**

Code Compliance Officer Darrell Rawlings addressed the Council and stated that Misty Thompson, on behalf of William Dorfmeister, has requested to plat 1.382 acres along Fay Avenue. They set up a preliminary subdivision meeting with the Code Compliance Department and the Public Works Department to go over what the subdivision ordinance calls for as far as layout and size of property regarding their proposed subdivision. A preliminary plat by their surveyor John Howard was submitted and reviewed to verify compliance with the Subdivision Ordinance. Deficiencies were found which were sent back to the surveyor to be corrected. The revised plat was also sent to our City Engineer for his review and approval in accordance with our ordinance. Due to the zoning classification change and the number of lots, it needed to be brought before council for approval. The zoning change classification required notification of neighboring property owners to have a public say in whether the zoning classification should be changed or not. In the meeting with the Planning & Zoning Commission, the issue of drainage came up which Mr. Rawlings stated had been brought up to his attention previously regarding the property because fill has been moved in and placed on it. Of course, there was much opposition mainly because of the drainage but also because some of the neighboring property owners had some contention against the two-family residential zone being utilized here. In light of this, the Planning & Zoning Commission made a motion recommending that the plat not be approved at this time until the issues of drainage be sought out or resolved satisfactorily; that was the outcome of the meeting last night with Planning & Zoning. Mr. Rawlings told Council that he and the city engineer have spoken before on the issues of drainage and it's apparent that we're going to need to see what the Council might suggest in resolving the issue as far as what steps the City can take on this matter.

Council held questions for Mr. Rawlings. Alderwoman Wilkins inquired how we would find out or determine whether this drainage situation is an issue or not. Mr. Rawlings explained that generally it comes down to engineering. It would come down to what type of elevations there are, water flow, what type of areas are draining from what point. Generally the issue under the floodplain management has to do with the area in the floodplain and all the regulations regarding displacing water that's coming down the watershed flowing into the creek that's being displaced and causing the water level to rise up and above that, that it would be in a standard area. Regarding the drainage issue where it runs off of other properties, Mr. Rawlings stated, the engineer is going to have to look at different areas other than just that floodplain boundary as far as the dirt because it's not displacing water; it's actually changing the drainage course by diverting water.

Alderwoman Antu inquired if we've already had our city engineer look at it. Mr. Rawlings stated that our city engineer has looked at it but explained that he looks at it in light of the subdivision ordinance; our subdivision ordinance takes the property and plat that he has to look at, and we've had several plats come through our city and it goes with the lay of the land shown on that plat as if there's any significant grade changes where there may be concerns about drainage or things of that nature. It doesn't take an overall view of the whole surrounding area and the elevations of surrounding properties; it just takes the elevations on that one property being platted. So as far as that one property and elevations on that one tract of land, it didn't reflect the issues on the contrasting elevations on other properties.

## **Regular Meeting Minutes**

**June 21, 2011**

**Page 5**

Alderman Lopez inquired if the platting of the new addition would cause the neighboring properties to flood. Mr. Rawlings added that the floodplain maps are in the process of being updated. Currently, until that map takes effect, the property being subdivided is in the floodplain. Any development that's done there will have to have elevation certificates from engineers to make sure that the property is being developed and isn't going to cause any, if the bottom floor is going to be above base level elevation and all that. Mr. Rawlings stated that any property can flood, it's not just properties in the floodplain that have an issue; there are properties up in the golf course that we had flooding issues with back in September. That's why we always push for everyone to get flood insurance on property because it's not a guarantee that just because you're not next to a creek you won't flood. He told Council that for him to say that anything that's done there is not going to cause it or will cause it; it's hard to say because it depends on the amount of rainfall, the duration and there are a lot of factors that go in to say that it will not cause flooding, or that it will cause flooding. So, that's why it's left up to the engineers; for them to make the determinations and calculations based on what's done.

Mayor Herring declared the Public Hearing open at 6:17 p.m.

Lynda Mikulenska, residing at 901 Windy Knoll, addressed City Council. She told Council she purchased her property in January, 1989. She stated she has never had water in her back yard until we had the good fortune of having that wonderful rain. In the interim period of time with the City and the County working together to get FEMA in there to draw up the new proposed flood plan, there was a gentleman who decided that he needed a swan pond and he hired four 12-yard dump trucks that ran from 7:00 a.m. to 7:00 p.m. for two weeks straight dumping the dirt for the swan pond all around her house and across the street from her neighbors. When we had the good rain, the water was running at least 18 inches through her yard. It was a first time experience; she stated she has photographs she can bring to council to show the depth of the water. Since the floodplain has been altered since FEMA and the County drew it up for you to be approved, she respectfully asked Council to put everything on the table tonight and let it lay until the County Floodplain Administrator is back at duty and can thoroughly evaluate the situation.

The next citizen to address Council was Mr. Waldo Gallegos. He explained that across from his property, the man has raised up the thing about four feet high, give or take. He said the water runs from the center from the other areas, comes around and right in front of his house is where it runs right into his yard. It runs into his yard, under his house and everywhere else; it's really a mess. He said none of the pipe drainage has ever been checked and every pipe and driveway is clogged up. Before anything else is done, he feels we need to take care of what we have now. I don't see any reason to have somebody else come in and build, and for the City to have to pay for the drainage or anything else; it needs to be corrected by him or by whoever is going to build.

Ms. Ramona Gallegos addressed Council. She's lived at 711 Fay for 60 years. She stated that never in her 60 years had the water gone into her property as it did back in September of 2010. She asked council to level the land to where they don't have the drainage problems that they have been having.

## **Regular Meeting Minutes**

**June 21, 2011**

**Page 6**

Mrs. Luisa Garcia of 713 Fay informed the council that water also came out to her property with that big rain we had last year and she agrees that the drainage needs to be addressed.

Craig Mikulanka advised council that you use to be able to walk to his back fence and stand at his back fence and look at the creek but now Mr. Dorfmeister has hauled in so much dirt that you cannot see the creek anymore. When it rains, all the water runs back toward his property.

Tina Wilburn informed the council that she does not think that the fix is to dig the creek out on her property. She believes the drainage problem is up stream.

Mayor Herring made a few comments on this; namely:

- Drainage seems to be the problem.
- Mr. Gallegos brought up a good point and he would like Public Works to look at this.

City Administrator Gary Pelech informed the public that he has been looking at this area from Crouch Avenue to Fay Street, and he knows we have some issues that need to be looked at.

Aldерwoman Wilkins commented that the problem is not with the subdivision but with the drainage.

Mayor Herring asked Planning and Zoning Commissioner Ed Dougherty and Planning and Zoning Commissioner Onis Wiemers to address the council on the minutes from their meeting. He pointed out to the bottom of page four where the motion read: Motion by Commissioner Dougherty, seconded by Commissioner Lawler to deny request made by Misty Thompson on behalf of William Dorfmeister based on the opposition that we recommend denying the zoning request at this time.

Mayor Herring asked them why this motion was made.

Zoning Commissioner Ed Dougherty explained that the meeting as you can tell had a lot of opposition and emotions so he felt that if they had approved it, the meeting would have gotten worse. He advised even though they knew that the subdivision plat didn't deal with the flooding issue, in the residents' minds it did. He felt, at that time, that the Planning & Zoning Commission had no choice but to deny it. The subdivision plat doesn't really address flooding issues one way or another. The square footage of lots are much bigger than what they have to be so again according to the subdivision ordinances it is completely within the realm of all the ordinances. He also advised that they also know that their decision is not binding.

Mayor Herring asked the council to motion to turn this back over to the Zoning Commission and have Mr. Dorfmeister's Engineer get with our Engineer since there are a lot of conflicting issues; they are the experts on this.

**Regular Meeting Minutes**

**June 21, 2011**

**Page 7**

Lynda Mikulenska asked that she would like the County Flood Administrator involved with the Engineers in everything going on with this project. She also advised that the administrator is out on vacation and will be back in mid-July.

Mayor Herring declared the Public Hearing closed at 6:33 p.m.

Motion was made by Alderwoman Wilkins, seconded by Alderman Lopez to turn this back over to the Planning & Zoning Commission with consultation with Mr. William Dorfmeister's Engineer and our City Engineer and the County Floodplain Administrator.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Lance

Motion carried.

The ninth order of business was to discuss and consider amending Ordinance 5-09 implementing use reduction measures intended to reduce water use from the Edwards Aquifer in order to preserve and protect the aquifer, the public water supply and spring flow and to prevent unnecessary waste.

City Administrator Gary Pelech informed the council that we are trying to get our ordinance to mirror SAWS because of the confusion that our residents are having on what they should be doing. We have given this to our City Attorney and he is working on this ordinance. Once our City Attorney has finished with this ordinance we can bring it back to Council for their approval.

At 6:36 p.m. Alderman Lance was seated for meeting.

Motion by Alderwoman Champion, seconded by Alderwoman Antu to table this item for the City Attorney to revise this ordinance.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider approving TXDOT's Municipal Maintenance Agreement.

City Administrator Gary Pelech informed the council that this is basically the same agreement we had in place for a long time and it is extremely outdated. He met with TXDOT officials a couple of months

**Regular Meeting Minutes**

**June 21, 2011**

**Page 8**

ago where they informed him that we would be taking on some of FM 2200 out to the airport. This is the only change on the agreement.

Agreement attached as Exhibit D.

Motion by Alderwoman Wilkins, seconded by Alderwoman Champion to approve the TXDOT's Municipal Maintenance Agreement.

Ayes	--	All
Nays	--	None

Motion carried.

The eleventh order of business was to discuss and consider Proposed Budget for 2012 for Medina County Appraisal District.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to approve Proposed Budget for 2012 for Medina County Appraisal District.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to discuss and consider appointing the Tax Assessor for Medina County, Loraine Neuman, to calculate and publish 2011 Effective Tax Rate and all necessary required notices for the City of Devine.

Motion by Alderman Lopez, seconded by Alderman Lance to appoint Tax Assessor for Medina County, Loraine Neuman, to calculate and publish 2011 Effective Tax Rate and all necessary required notices for the City of Devine.

Ayes	--	All
Nays	--	None

Motion carried.

The thirteenth order of business was Informational Items.

Mayor Herring thanked everyone helping with Mission Devine.

**Regular Meeting Minutes**

**June 21, 2011**

**Page 9**

Mayor Herring congratulated the Devine Little League boys and girls for participating in the Coach Pitch in Natalia; they did a good job.

Mayor Herring informed council that the cleanup process at the Well Yard has started.

Mayor Herring informed council that we will be scheduling for a Pre-construction Meeting for the Water Well Project.

Mayor Herring announced that State Representative Tracey King will be speaking at the Chamber of Commerce Meeting.

Mayor Herring advised that the paving of Aktins Street looks good.

Mayor Herring advised that Public Works cleaned out the mechanic shop and sold a lot of scrap metal and received \$17,997.00 for it.

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

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Mayor

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City Secretary