

Minutes
Special Meeting
June 23, 2009

On this 23rd day of June 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 Jerry Beck
Alderman John Ramirez
Alderman Frank Cortez, III
Alderman David Espinosa
Alderman Hal Lance
Alderwoman Marina Antu

Thus, constituting a quorum.

Personnel Present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Ofilia Pedroza, Assistant City Secretary; Nancy Pepper, City Treasurer; and Ismael Carrillo, Superintendent of Public Works.

Others present: Sandy Herrera - Devine News; James LaCombe - Medina Valley Times; Beau Carroll - Circle C. Services, Inc.; Jerry Carlton and D.L. Bandy, San Marcos; Marshall Davis, Devine ISD; Kailyn Miller, Dakota Dougherty and Chris Espinosa – Devine H.S.; and Wanda Gardner, Devine, Texas.

Mayor Jerry Beck, presiding, declared the meeting opened.

The first order of business was Recognition.

Mayor Beck recognized three Devine High School students: Kailyn Miller, Dakota Dougherty and Chris Espinosa. He said they keep the City of Devine in the spotlight not only at the local level, and county level but also at the State level. All three students were in the TV spotlight as Instant Replay Scholar Athletes of the Week.

The second order of business was to discuss and consider adding Stage II Supplement to Ordinance 05-09 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.

Council reviewed a letter from the Edwards Aquifer Authority and the Stage II Supplement to Ordinance 05-09, effective June 18, 2009 which is the date Stage II was declared. The only change Council noted was “no watering on weekends.”

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Motioned by Alderman Lance, seconded by Alderman Espinosa to adopt Stage II Supplement to Ordinance 05-09 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.

Stage II Supplement to Ordinance 05-09 attached as Exhibit A.

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| Ayes | -- | All |
| Nays | -- | None |

Motion carried.

Discussion was held after the motion by Mr. Fred Morales with City Council.

Interim City Administrator Dora V. Rodriguez held discussion with City Council that the ordinance needs to be adopted due to corrections.

Mayor Beck stated that this is to our advantage, and it gives us a leeway to do other things. He explained that due to the fact that we do draw water from the Edwards; however, we do have to comply with their mandates, unfortunately. And, he stated that we do need to have an ordinance in place which doesn't mean we can't grant variances.

The third order of business was to discuss and consider continuing to supply water to Circle C Services for School Project due to Stage II Water Restrictions.

Alderman Lance stated that he felt that the City should discontinue supplying water to the contractors. He felt they can get water from the school because it's the citizens that we need to take care of. He said, yes, school students are citizens, but felt that the water can be pumped from the school wells at the rate that they need, to use the water for all of the construction that is going on.

Alderman Espinosa asked Mr. Marshal Davis if they are capable of using their wells. Mr. Davis stated they have one by the softball field that can pump at 90 gallons per minute. He said it won't hold at that rate, but they can start pumping at that rate, and they would have to see how long it takes before it starts depleting too much. He said the well will recover but you can't pump it for long periods of time. Mr. Davis talked of possibly filling up the water truck in the evenings. According to Mr. Davis, their well is Carrizo water.

Discussion was held on the water meters already installed at the football field and the Middle School.

One of the school contractors spoke out and told City Council that time is of the essence; they need to meet an August 15th deadline.

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Discussion was held with Superintendent of Public Works Ismael Carrillo on how much water we have.

Alderman Ramirez stated that the figures didn't matter because our priority is to take care of our citizens before we sell water to the school or the swimming pool.

Alderman Cortez stated that we had bought water back in 2002 because we saw this coming; he said we bought water for this very reason and we still have a lot of water; we're never going to use that much water.

Motioned by Alderman Cortez, seconded by Alderwoman Antu to continue to supply water to Circle C Services for the school project.

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| Ayes | -- | Two (Alderman Cortez, Alderwoman Antu) |
| Nays | -- | Three (Alderman Ramirez, Alderman Espinosa, and Alderman Lance) |

Motion failed.

Council held discussion after the motion, namely:

- Alderman Ramirez – We bought water for our citizens, not for construction.
- Alderman Espinosa – Agreed with Alderman Ramirez that our citizens come first.
- Alderman Cortez – This year, we may not even use all the water. The school might only use two acre feet of water.
- Alderman Lance – They can get it from the school.
- Contractors – They are 68% complete with the project and have only used one-third of the estimated water so far.
- Mr. Morales – It's the same water regardless where it comes from. If you ask them to pull it out of their well, the City will only lose out on the revenue. Why not keep doing what you're doing?
- Alderman Lance – What's the difference if they get it from the City or the School?
- Contractors – Time is of the essence; if it's not done by August 15th, the schools won't open.
- What about the students? Aren't they citizens?

The fourth order of business was to discuss and consider request from Fred Morales for City of Devine to supply him with water for the swimming pool due to State II Water Restrictions.

Mayor Beck stated that it was his understanding that Mr. Morales has already paid for the water.

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Motioned by Alderman Cortez, seconded by Alderman Lance to sell water to Fred Morales that he needs for the swimming pool.

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| Ayes | -- | Three (Alderman Cortez, Alderman Lance, Alderman Antu) |
| Nays | -- | Two (Alderman Ramirez, Alderman Espinosa) |

Motion carried.

Discussion was held after the motion; namely:

- Alderman Espinosa – I don't understand why we would approve one and not the other.
- Alderman Lance – Again, it's for the citizens.
- Alderman Ramirez – A swimming pool!? That's more important than the school?
- Alderman Lance – He's already invested a lot of money.
- Floor - And the school hasn't invested?
- Floor – If the school doesn't open, you're going to have every citizen in Devine on your doorstep.
- Contractor – We'll get them open, but they may have to be walking across the street.
- Floor – You're going to have upset citizens.

The fifth order of business was to discuss and consider status on Enterprise Pipeline Project and creating an account to prepare for the cost.

Mayor Beck announced that this was for piping in of natural gas to supply to the customers during the 21-day cut-off for July of next year.

Interim City Administrator Dora V. Rodriguez explained that she's been talking to Mark McLIney, with Southwest Securities, who has suggested that it would help if we create a line item for citizens to help pay for this project. She also stated that we do still have some reserves that can help pay for this project. We have approximately 900 gas customers. Accountant Nancy Pepper told Council that it would be a charge to the customer.

Interim City Administrator Dora V. Rodriguez explained that City Attorney Tom Cate will need to create an ordinance for Council to adopt. We'll need to publish it in the newspaper and give the citizens at least 30 days notice before we put it on their bills.

Alderman Lance inquired about the estimated cost. Two quotes were received by Superintendent of Public Works, Ismael Carrillo. One was for \$140,000 and the other was for \$200,000, but there was a meeting held in Lytle with different cities at which time they decided to share the cost on the equipment only, not on the gas. Each city will pay for its own gas because it will be metered.

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Interim City Administrator Dora V. Rodriguez stated that they plan to have more meetings and they will be given more precise quotes on that, but we do need to create a line item to be able to start getting some money for it.

Mayor Beck asked if there is anything that we can take out of the reserve fund to help supplement the cost since our citizens have been taxed so much already. Interim City Administrator stated that, yes, we are going to have to do that because by next July we won't even have one-third of the money we need. Accountant Nancy Pepper explained that doing this will only give us one-third; she stated that we do not have that much in reserves in the Gas Fund. She said we have about \$130,000 in Reserves in the Gas Fund. She said that sometimes we have to draw around \$60,000 for a bond payment.

Alderman Ramirez inquired on any grants available. Interim City Administrator Dora V. Rodriguez said she had already contacted Langford Management Services about a grant but they said there's not anything right now that we can use.

Ms. Gardner stated that she understands we are going to levy another fee on her gas bill in July. She asked if we had an estimated amount. Based on approximately 900 gas customers, Accountant Nancy Pepper said it may come out to approximately \$5.00. She said we don't like it but there are not enough funds in the Gas Department. Ms. Gardner suggested that we revise our budget. Accountant Nancy Pepper added that it has to be a designated amount and it has to be set aside in a separate fund so that it will not be used for anything else other than this project. And, this is something that will happen every seven years.

Mayor Beck stated that this is another example of an unfunded mandate coming from the big government.

Motioned by Alderman Cortez, seconded by Alderman Ramirez to create a line item to prepare for the Enterprise Pipeline Project, along with an ordinance.

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| Ayes | -- | All |
| Nays | -- | None |

Motion carried.

Mayor Beck asked if we were not including rates right now. Interim City Administrator Dora V. Rodriguez said we can include the rates on the ordinance that Tom will create.

The sixth order of business was the 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 – Sale of Property

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At 7:33 p.m., Mayor Beck announced to the public that the Council would go into a Closed Session.
At 7:43 p.m., Closed Session was opened to the public.

No action was taken.

The seventh order of business was to Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

No action was taken.

There being no further action to come before the governing body, Alderman Espinosa motioned to adjourn the meeting.

Mayor

City Secretary