

Minutes
Regular Council Meeting
July 16, 2013

On this 16th day of July 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
Alderman David Valdez

Thus, constituting a quorum.

Personnel present: Gary Pelech, City Administrator; Denise Duffy, City Accountant; Tom Cate, City Attorney and Cassandra Maldonado, Municipal Court Clerk.

Others present: Sandy Herrera, Devine News; James Armstrong, Medina Valley Times; Deborah Dauphinee, James R. Spurgers, Bill Bain, Curly Brehm, Eldora Brehm, Kirt Raysdale, Sonia Lance and Misty Houston, all 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 the Visitors/Citizens Forum.

No one signed up for this item.

The second order of business was Recognition.

- Mayor Herring praised Judge Philip Montgomery for being named "Justice of the Peace of the Year".

The third order of business was to discuss and consider Approval of Minutes: Regular Council Meeting, June 25, 2013.

Council reviewed minutes.

Mayor Herring mentioned that a change was made to the minutes on Page 11. He said that the first sentence of last paragraph should read "Alderwoman Wilkins inquired if we might be double dipping due to the fact that the County also collects delinquent taxes."

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Motion by Alderman Lopez, seconded by Alderwoman Wilkins to Approve Minutes for Regular Council Meeting, June 25, 2013.

Ayes	--	All
Nays	--	None

Motion carried.

The fourth order of business was to review Airport Advisory Meeting Minutes for July 9, 2013.

Council reviewed the minutes.

Mayor Herring reminded Council that if no changes needed to be made to the minutes then no action would be taken.

No changes were made.

The fifth order of business was to discuss and consider amending Chapter 2 of the Code of Ordinance for the City of Devine – Section 2-261 – Created; Composition; Appointment.

City Attorney, Tom Cate, said that this Ordinance would change the number of Airport Advisory Board members from eight to seven.

Mayor Herring asked if the Airport Advisory Board had any objections.

Several members of the Board were present, however, no objections were announced.

Motion by Alderman Lance, seconded by Alderwoman Champion to Adopt Ordinance 7-13 amending Chapter 2 of the Code of Ordinance for the City of Devine – Section 2-261 – Created; Composition; Appointment.

Ordinance 7-13 attached as Exhibit A.

Ayes	--	Five
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider for Council to approve Sub-leases by the Airport Hanger Owners.

City Attorney, Tom Cate, stated he reviewed the Sub-leases and they looked good. He said that the Renter Agreement stated it was not subject to the City of Devine's Lease. He said that the wording needed to be changed to state that they are subject to the City's Lease. He said that Mr. Brehm used the State Bar's form for the sub-lease.

City Administrator, Gary Pelech, mentioned that Curly's Lease was very thorough and he would eventually like to have all of the sub-leases worded in the same manner.

Mayor Herring asked if all of the City's leases would need to be changed.

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City Attorney, Tom Cate, said that the City's leases were fine; however, the subleases need to be changed once they expired.

Motion by Alderwoman Champion, seconded by Alderman Valdez to approve Sub-leases by the Airport Hanger Owners.

Ayes	--	All
Nays	--	None

Motion carried.

The seventh order of business was to review the Juvenile Curfew Order of Ordinance.

Council reviewed the Ordinance.

City Attorney, Tom Cate, said that State Law required that this Ordinance be reviewed every three years.

Mayor Herring asked if the Ordinance had ever been changed and if any changes needed to be made.

City Attorney, Tom Cate, said that it had not been changed and that it would be best if the Police Department could review the Ordinance.

City Administrator, Gary Pelech, announced that the Police Chief was at a training seminar and was unable to attend the meeting. He said that the Police Chief did not have any changes to the Ordinance.

The eighth order of business was to discuss and consider for the council to dedicate a portion of the property described as (0.090 acres out of A0713 F. Niggli Survey 1, located on Hondo Ave. W. (aka State Hwy 173) between 1212 Hondo Ave. W. (R7071) and 1220 Hondo Ave. W. (R6963)) for a future street.

Mayor Herring explained that Misty Houston wanted a 50'x70' piece of property dedicated as a street for a future subdivision to be developed behind it.

City Administrator, Gary Pelech said that this piece was not big enough for anything other than a street.

Motion made by Alderman Lopez, seconded by Alderman Lance to dedicate a portion of the property described as (0.090 acres out of A0713 F. Niggli Survey 1, located on Hondo Ave. W. (aka State Hwy 173) between 1212 Hondo Ave. W. (R7071) and 1220 Hondo Ave. W. (R6963)) for a future street.

Ayes	--	All
Nays	--	None

Motion carried.

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The ninth order of business was to discuss and consider recommendation of the Planning & Zoning Commission Meeting held on July 8th, 2013.

- a. Discuss and consider a variance request made by Misty Houston on behalf of Thompson Houston Real Estate, LLC. for a variance to Article 3, Section 1, Subsection 3 (Accessory building), of the Zoning Ordinance of the City of Devine, in connection with a proposed vacate and re-subdivision plate of J.M. Bright Addition, Block 17 (NCB 48), Lots 11 and 12 which is to be vacated and re-subdivided as J.M. Bright Addition, Block 17 (NCB 48), Lots 13 & 14, such variance would apply solely to proposed Lot 13, currently addressed as 411 Park Ave. W., to allow an encroachment of an existing accessory building, approximately 458 sq. ft. in area, of 1.5-feet into the rear setback (minimum side setback of 3-feet is required) and of 2.3 feet into the right-side setback (minimum side setback of 5-feet is required) and to allow an encroachment of a second existing accessory building, approximately 168 sq. ft. in area, of 2-feet (minimum side set-back of 3-feet is required) to allow for future construction or placement of permitted structures on Lot 7 and proposed Lot 14. Such variance is requested to apply only to the existing buildings, and not to any addition to the existing buildings or construction or placement of any future accessory buildings.

Mayor Herring explained where the property was located and that the Planning & Zoning Commission already approved the variance.

Motion made by Alderwoman Champion, seconded by Alderwoman Wilkins to grant the variance request made by Misty Houston on behalf of Thompson Houston Real Estate, LLC. for a variance to Article 3, Section 1, Subsection 3 (Accessory building), of the Zoning Ordinance of the City of Devine, in connection with a proposed vacate and re-subdivision plate of J.M. Bright Addition, Block 17 (NCB 48), Lots 11 and 12 which is to be vacated and re-subdivided as J.M. Bright Addition, Block 17 (NCB 48), Lots 13 & 14, such variance would apply solely to proposed Lot 13, currently addressed as 411 Park Ave. W., to allow an encroachment of an existing accessory building, approximately 458 sq. ft. in area, of 1.5-feet into the rear setback (minimum side setback of 3-feet is required) and of 2.3 feet into the right-side setback (minimum side setback of 5-feet is required) and to allow an encroachment of a second existing accessory building, approximately 168 sq. ft. in area, of 2-feet (minimum side set-back of 3-feet is required) to allow for future construction or placement of permitted structures on Lot 7 and proposed Lot 14. Such variance is requested to apply only to the existing buildings, and not to any addition to the existing buildings or construction or placement of any future accessory buildings.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider adopting an Ordinance establishing a Municipal Court of Record No. 1; abolishing the Municipal Court not of record; conferring specific jurisdiction on the court; providing for procedures for appointment of judges and clerks; providing for court reporting; providing a cumulative & conflicts clause, providing for a severability clause; and providing for an effective date.

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Discussion held regarding definition of Municipal Court of Record.

City Attorney, Tom Cate, explained an attorney judge would be required and the proceedings would need to be recorded. He added that since there would be a record of the court proceedings, if a defendant requested an appeal the County Court would review the record and they would not be allowed a “new trial” before the County Court.

City Attorney, Tom Cate, stated that it would be easier to enforce the City’s Nuisance Ordinances.

City Administrator, Gary Pelech, said that the judge is Mark Haby. He is the Justice of the Peace for Precinct 2 and he is also the Municipal Judge for La Coste. He said that it would cost the City an additional two hundred dollars a month.

Mayor Herring announced that the new Judge would be present so that the Council can meet him. He added that this Ordinance would need to become effective July 19, 2013.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to adopt Ordinance 7-13A establishing a Municipal Court of Record No. 1; abolishing the Municipal Court not of record; conferring specific jurisdiction on the court; providing for procedures for appointment of judges and clerks; providing for court reporting; providing a cumulative & conflicts clause, providing for a severability clause; and providing for an effective date.

Ordinance 7-13A attached as Exhibit B.

Ayes	--	All
Nays	--	None

Motion carried.

The eleventh order of business was to discuss and consider for council to appoint Alma Flores as Court Clerk.

City Administrator, Gary Pelech, said that in keeping with the cross-training methods of the City, Mrs. Flores was being trained for the Municipal Court Department.

Motion made by Alderman Lopez, seconded by Alderman Valdez to appoint Alma Flores as Court Clerk.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to discuss and consider Proposed Budget for 2014 for the Medina County Appraisal District.

Alderman Lance stated that the Budget reflected 37% in fringe benefits and a 5% pay increase. He added that he did not approve of the Budget.

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City Administrator, Gary Pelech, said that if enough taxing entities objected to the Budget then the Appraisal District would have to re-do their budget.

Council held brief discussion.

Motion made by Alderman Lance, seconded by Alderwoman Wilkins to deny the Proposed Budget for 2014 for the Medina County Appraisal District.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to Review Investment Report.

Council reviewed the report.

City Administrator, Gary Pelech, said that one of the CD's was going to be used to fund the Edward's Well.

Mayor Herring said that the City was in good standing financially and praised City Administrator, Gary Pelech, City Secretary, Dora V. Rodriguez, City Accountant, Denise Duffy and City Financial Advisor, Mary Badillo, for a job well done.

The thirteenth order of business was Informational Items.

Mayor Herring mentioned the following:

- Police Officer Derek Aguilar was leaving the City for another job opportunity. Public Works Employee, Juan Benites, was also leaving.
- Code Compliance Officer, Darrell Rawlings, was scheduled to have brain surgery at the end of the month.
- The main water line to the Edward's #2 Well was cracked and would be fixed soon.
- The City received a notice from AEP that they will be lowering some of their meter related fees.
- WTG has settled with the Railroad Commission regarding the rate increase they requested.
- Construction on the Edward's Well to begin soon.

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

Mayor

City Secretary