

**Minutes
Regular Meeting
July 21, 2009**

On this 21st day of July, 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 Jerry Beck
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, Interim City Administrator/City Secretary; Ofilia Pedroza, Assistant City Secretary; Nancy Pepper, City Treasurer; Tom Cate, City Attorney; Rob Flores, Chief of Police; Billy Grote, Director of Public Works; Ismael Carrillo, Superintendent of Public Works; and Barbara Moore, Library Director; and Darrell Rawlings, Code Compliance Officer.

Others present: Mike Rietz, San Antonio, Texas; Fred Maples, Elmendorf, Texas; Sandy Herrera – Devine News; Fran Taylor, James Caldwell, Tammy Alanis, and Ricardo Alanis – Devine Chamber of Commerce; C.E. Brehm, Ernest Ruston, Steve A. Lopez, Russ Pumphrey, Gordon Taylor, Sonia J. Lance, and Roger Pedroza of Devine, Texas.

Mayor Beck, presiding, declared the meeting opened and welcomed all visitors. Mayor Beck also delivered the Invocation; Alderman Cortez 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: Regular Meeting June 16, 2009; Special Meeting June 23, 2009; and Special Meeting July 14, 2009.

City Council reviewed minutes and pointed out a correction needed to be made to Page 4 of the minutes for Regular Meeting June 16, 2009. The sixth order of business read “Motioned by Alderman Cortez, seconded by Alderman Cortez...”

Motioned by Alderman Cortez, seconded by Alderman Lance to approve the minutes of Regular Meeting June 16, 2009; Special Meeting June 23, 2009; and Special Meeting June 14, 2009, with corrections to be made for the Regular Meeting June 16, 2009.

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

Motion carried.

The third order of business was to discuss and consider the Operations of the Chamber of Commerce.

Ms. Fran Taylor, President of the Chamber of Commerce addressed City Council. She wanted to give the Council an idea of their everyday operations, and gave a detailed summary of everything that they do besides just answering phones, managing the Queen's Court and running the Fall Festival. She stated that the Chamber is a vital part of the City of Devine but the bottom line; however, is that they are low on finances, and have even had to cut their hours. She asked Council to please consider the Chamber in their budget planning and stated that they are doing everything they can to raise funds. She inquired as to the yearly percentage the Chamber can get from the City's Hotel/Motel tax money because they depend on it.

Mayor Beck informed Ms. Taylor that we can get to the financial part of it when we discuss the budget; he informed that the City will be holding a budget workshop on July 28th at which time the Council will be discussing the Community Center, and invited them to show up at that time. They agreed to come.

The fourth order of business was to discuss and consider proposal submitted by Paul Jette, Water Systems Consultant.

Mayor Beck introduced Paul Jette as a Water Systems Consultant with Utility Service Company who was here to talk to us about our ground storage and water storage. Mr. Jette addressed City Council. He said his company is headquartered in Prairie, Georgia, but he is the representative for this area and West Texas; he currently lives in Castroville. He told Council his company was founded in 1963 and is currently the largest in the country. They have nine production offices nationwide with the closest one being in Houston. In Texas, they have account managers located in Caldwell, Houston and Castroville. He said they are a fully integrated professional services firm that is dedicated to the power and water industry. They offer programs and services in asset management, mainly on water tanks and storage vessels.

He presented a Power Point presentation to Council and talked in detail about their maintenance program; their maintenance plans, which also offer emergency services within 24 hours; their oracle program, which he explained would allow us to pull up various reports that come in very handy during state inspections; and he also talked about their payment plans. He said anything that they do is in compliance with AWWA, TECQ and OSHA. Mr. Jette presented proposals totaling \$1,750 for the assessment and inspection of five tanks (two elevated tanks at \$500 each and three ground storage tanks at \$250 each). If the City of Devine is interested, he offered to come and do another Power Point presentation.

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Council held discussion with Billy Grote, Director of Public Works, who stated that the City has our tanks inspected annually and the only ones that the Public Works crew can't inspect are the water towers; he explained that we hire a company that does that every two years. He said we do have a contract with another company. When asked how long he's been doing these reports, Director of Public Works Billy Grote stated that he's been doing this since 1976, and he has never gotten a bad report. Interim City Administrator Dora V. Rodriguez added that basically by Public Works doing all the maintenance, they have saved the City a lot of money that way.

Mayor Beck told Mr. Jette that we are still under contract and obligation to this other company and we have to honor it. He said that when the contract runs out, we could certainly consider his offer again for comparison.

Motioned by Alderman Espinosa, seconded by Alderman Cortez to deny proposal submitted by Paul Jette, Water Systems Consultant.

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

Motion carried.

The fifth order of business was to discuss and consider request made by Mr. Fred Maples not to be hooked up to the City Sewer.

Mr. Maples addressed City Council. He told Council that he was told to come before the Council. He explained that a year ago, someone from the City had approached him about getting an easement across his property to be able to run water and sewer to the day care center. He explained that we probably wanted to go further because we cut three of his fences in the process of putting in all the sewer, and because we dug up the front of his property, he was inconvenienced because his customers weren't able to get to the cleaners for 3-4 days. He said he dealt with a few problems such as getting the City workers to pick up their materials, and fixing a couple of sink holes. In the process of doing this, he was offered to get meters for three locations and he understood that was all he was going to get out of it, which he didn't see anything wrong with it. He agreed verbally for the City to put three new water meters and two sewer hook-ups. He explained he did not want the other sewer connection because he had a perfectly good septic tank system. He said the only reason he wanted to do the water was because he was out in the county and all he had was well water, and this was a great opportunity to get on our water system which could also benefit anybody who owned that property in the future. Two months ago he received a notice saying that he had to hook up within 60 days or he would be shut off. His concern is that he thought he had an agreement. He said a couple more months went by and he was told that we didn't have it in writing. He said he thought that was part of the concession that he allowed the City to have to be able to run lines across his property. He thought that was reasonable.

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Mayor Beck told Mr. Maples that it sounded reasonable but in today's time, it seems that everything has to be in writing. He apologized to Mr. Maples. Interim City Administrator Dora V. Rodriguez asked Superintendent of Public Works Ismael Carrillo if he could give us his view on this.

Superintendent of Public Works Ismael Carrillo told Council that he was the one who had approached Mr. Maples to ask him for the easement. He said he was correct in that he wanted three water meters and two sewer connections, which was promised him if he would give us an easement. Ismael explained that the connection Mr. Maples is talking about was just left out there if in case in the future he would want to get hooked up, the connection would be ready for hook-up. However, he clarified that it's been more than two years; he explained that after two years, you have to hook up to sewer service within the city limits. Mr. Maples stated that no one ever explained this to him. City Attorney Tom Cate confirmed that it's whatever our ordinance says.

Mr. Maples said the only reason the City came to him was because the guy next door wouldn't give us an easement. He told Council he should've said no, but he thought he was doing the right thing and apparently he wasn't.

Council told Mr. Maples that he did get three water hook-ups and two sewer hook-ups which are probably valued between \$7,000-8,000. Mayor Beck informed Mr. Maples that our city ordinance does state that after two years, you do have to connect to city services.

Mr. Maples thanked City Council and left.

Attorney Tom Cate advised no motion was needed since we have a city ordinance that covers this.

The sixth order of business was to discuss and consider awarding proposal for City Auditors to Coleman, Horton & Company LLP.

Council reviewed the three bids received. City Accountant Nancy Pepper informed City Council that this firm is out of Uvalde. She said they have been doing the school audit for a number of years, and they've not heard anything bad about this company. She told Council that our Financial Advisor Phil Sagebiel had stated that he wished he had heard about them four years ago. She said that over the high bid, they would be saving the City over \$20,000 in a three year period. It was explained that we have a three year contract with option to opt out, just like the one before.

Motioned by Alderman Cortez, seconded by Alderwoman Antu to award proposal for City Auditors to Coleman, Horton & Company LLP.

Audit Proposals attached as Exhibit A.

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

Motion carried.

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The seventh order of business was to discuss and consider approving cost for the Remediation of the Storage Fuel Tank at the Devine Municipal Airport.

City Council reviewed proposal submitted by John Barron, Project Manager of Alamo 1, for an estimated total of \$4,883.00. Interim City Administrator Dora V. Rodriguez told Council that this price applies only if everything goes as expected. She pointed out to them that the bottom of his statement reflected prices of additional line items, if needed. Public Works will be doing the majority of the work. C.E. (Curly) Brehm, Airport Manager, addressed some of the additional line items. He said that at one time this tank was dug up by the City, and the reason the City filled it back in was because we didn't seem to know what to do with it, and it started infringing on the foundations of both sides of the hangars, so they decided to bury it again, and that's where it's been ever since. He told Council that he seriously doubts that we will have any problems under that tank; it will be minimal, if any.

Interim City Administrator told Council that John Barron will also be getting together with the lady who came to the last meeting to see if he can get financial help. Airport Manager Curly Brhem commented that meeting as quickly as we are, is going to be greatly in our favor and he thinks we are going to get some help.

Council held discussion on the reputation of the company. Interim City Administrator Dora V. Rodriguez told Council that before paying anything, if something were to come up, she would be quick to inform City Council. She will be getting with Mr. Barron.

Motioned by Alderman Cortez, seconded by Alderman Espinosa to approve bid for \$4,883.00 submitted by Alamo 1 for the Remediation of the Storage Fuel Tank at the Devine Municipal Airport on the condition that if the cost changes, it will come back before Council.

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

Motion carried.

The eighth order of business was to discuss and consider Petition for Voluntary Annexation of the Paradigm Subdivision – Lot 2 and Pt. 1 located on State Highway 132.

Council reviewed petition. Interim City Administrator Dora V. Rodriguez told Council that this is just the next step that needs to be done on the annexation process; there are many more steps to follow.

Motioned by Alderman Espinosa, seconded by Alderman Cortez to approve the Petition for Voluntary Annexation of the Paradigm Subdivision – Lot 2 and Pt. 1 located on State Highway 132.

Petition for Voluntary Annexation attached as Exhibit B.

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

Motion carried.

The ninth order of business was to discuss and consider appointing Tax Assessor for Medina County, Loraine Neuman, to calculate and publish the 2009 Effective Tax Rate and all necessary required notices for the City of Devine.

Motioned by Alderman Cortez, seconded by Alderwoman Antu to appoint Tax Assessor for Medina County, Loraine Neuman, to calculate and publish the 2009 Effective Tax Rate and all necessary required notices for the City of Devine.

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

Motion carried.

The tenth order of business was to discuss and consider Proposed Budget for 2010 for the Medina County Appraisal District.

Council held lengthy discussion. They had a lot of questions and comments; namely:

- They make some healthy money! The average salary is \$60,000.
- Two-thirds of the budget goes to salary!
- Normally, a service organization would have that much in pay.
- I'm not happy with the figures I see!
- Last year's tax appraisal was like \$102 Million.
- Is levy based upon our appraisal within the city limits?

City accountant Nancy Pepper explained that one of the pages shows what the 2008 levy was for each one of the entities listed. She explained that they have figured out our percentage of the total levy of \$38,746,143.90. The City of Devine would be paying 1.84% of their budget in quarterly payments.

Council decided to table this item for the next council meeting so that James Garcia could come in to answer a lot of questions.

The eleventh order of business was to discuss and consider the City of Devine's Contribution Rate for TMRS effective January 1, 2010.

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City Accountant Nancy Pepper informed Council that we are at 10.32 and it is to be 10.61 next year. She said it is going up 3/10 of one percent; actually .29 percent. She explained that last year we took the whole increase, so that this year we don't feel much of the increase; whereas other cities didn't do that, and they are experiencing a lot larger increase overall than we are.

Motioned by Alderman Espinosa, seconded by Alderman Cortez to approve City of Devine's Contribution Rate for TMRS at 10.61, effective January 1, 2010.

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

Motion carried.

The twelfth order of business was to discuss and consider options for getting rid of the Grackles (Birds) by Police Chief Flores.

Chief Flores addressed City Council and presented handouts of more ways to get rid of the birds; most of them being bird repellent systems. He told Council the last handout (#5- BirdXPeller PRO) shows the one we currently use. He said the Ultrasonic repellent system (#2-Balcony Guard) is the quiet one; you don't hear it but it's supposed to scare the birds away. The third one (#3-IGEBA TF-35 Thermal Fogger) is the fogger that he had brought up last time, but it's fairly expensive. Also, the liquid repellent used with this is very high at \$189/gallon. One of the options (#1-Fiocchi 12 Gauge Blanks) would make a lot of noise and would only scare them from tree to tree. He stated he had no idea which one to go with; they're birds and they're going to come back.

Mayor Beck stated that in his opinion a Grackle is one of God's creatures and it's going to do what Grackles do; they're annoying, obnoxious and nasty. He said we can only scare them, but he doesn't believe that the City should be chasing Grackles around town. He said if it were a health hazard and we lend ourselves to eradicate the problem with one individual, we're going to have to move over to the next one and do the same thing. He said this information is out there and if folks want it, it's available. Mayor Beck stated, "Here are some options, but should the City do it?" He said we'd have to do it community-wide; not just in spots. He said that personally he gets rid of them by destroying their nests, and that means climbing trees.

Council held discussion on the different options. No motion was made. Council thanked Chief Flores for doing his homework.

The thirteenth order of business was to discuss and consider recommendation of the Planning and Zoning Commission for meeting held on July 20, 2009:

- a. Request made by Jim Rackley to change the zoning classification of property located at 505 Mc Annely Avenue and described as follows: Devine Subdivision, Block 77, Half part of Lot 4, from a Class A. Single Family Residence District to a Class F. Neighborhood Shopping Center District for a prospective buyer to open a retail store/gift shop.

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Mayor Beck told Council that the Planning and Zoning Commission has approved it and it's up to Council to stamp it. Code Compliance Officer Darrell Rawlings told City Council that it is rental property; it's a triplex, however, he has no idea how long it's been a triplex. He said the date the appraisal district has on the house is 1919 for year of construction. He said it was zoned for Single Family, and the chiropractic clinic next door is already a Class F. Neighborhood Shopping Center; it would just be extending that zone over. When asked by Council if anyone has protested against this, after the publications, he said he's received no comments.

Alderman Espinosa inquired if rental property is considered commercial since they're making money off of it. Code Compliance Officer Darrell Rawlings stated that there are residential properties throughout the entire city, but regardless of zoning, it can be a commercial rental or it can be a one family dwelling, but we're looking at what the structure is used for; not the status on if it's rental or private ownership.

Motioned by Alderman Espinosa, seconded by Alderman Lance to accept Planning and Zoning's recommendation to approve request made by Jim Rackley to change the zoning classification of property located at 505 Mc Annelly Avenue and described as follows: Devine Subdivision, Block 77, Half part of Lot 4, from a Class A. Single Family Residence District to a Class F. Neighborhood Shopping Center District for a prospective buyer to open a retail store/gift shop.

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

Motion carried.

The fourteenth order of business was to review the Quarterly Report.

City Accountant Nancy Pepper told Council that the interest is down really bad, and it continues to go down. She pointed out that the average return for June 2009 is at 0.51%. She said in December 2008, it was at 1.45% and in March 2009, at .80%; so it just continues to get worse. She said it's pretty sad when you have \$1 Million invested in one place, and in three months you only get \$1,600 worth of interest. We still have \$900,000.00 in CD's for the construction, and some of them will be maturing pretty soon (one at Bank of Texas and one at Medina Valley State Bank).

This was for review only.

The fifteenth order of business was the Reports, namely:

- City Secretary's Report – Council reviewed report.
- City Treasurer's Report – City Accountant Nancy Pepper told Council they've seen a lot of it in the Budget Workshops. She said she is working on Revenue figures for the budget and trying to get some figures for them in another couple of weeks. The city sales and franchise

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taxes are definitely down. She stated we also did some amendments in April and there shouldn't be too many more. Interim City Administrator Dora V. Rodriguez reminded Council that they will need to amend the budget before they can adopt the new budget.

- Public Works – Alderman Espinosa inquired if there was any way we could contact the school in helping us to overlay Dove Street. He told Council that it's a residential area but the heavy traffic (mostly delivery trucks going to the school) is tearing up the street and turning it into a commercial street. According to Interim City Administrator Dora V. Rodriguez, overlaying streets is very costly and this could take up the whole budget. Mayor Beck stated that it is a public street, but if the school could try to limit the traffic by only designating the teachers to use Dove Street and redirect all other delivery trucks to FM 2200, it would help the traffic condition and the wear and tear on the street. He said that probably the only delivery trucks allowed would be the ones going to the Ag Shop.

Council held discussion on the Carrizo Well with Director of Public Works Billy Grote. Discussion was also held on the contractors. Per Billy, they are almost finished with the work but they are having to subcontract for the gas. No problems reported.

- Police Chief's Report – Mayor Beck informed Chief Flores that he had received a couple of phone calls from the Colonial Oaks/Golf Course area reporting kids walking around at night. He said it seems they've been keying cars, taking things out of yards; it's been happening between 11:00 p.m. and 2:00 a.m., and he just wanted to relay this to him because a couple of people have armed themselves.
- Animal Control – Interim City Administrator Dora V. Rodriguez reported that the Animal Control vehicle broke down. Director of Public Works Billy Grote informed Council there was a problem with the starter, and Police Chief Flores reported that it's been taken care of.
- Library – Library Director Barbara Moore reported that she has a few more weeks of programs for the summer and four more meetings for the summer, and then they'll be through with the summer. She reported that the wireless router is working fine. It gets turned off at 10:00 p.m. and turned back on at 7:00 a.m. They will be changing to a new automation system and will be conducting an inventory, so they will be closed down for one week before school starts in order to get this accomplished.
- Chamber of Commerce – Council reviewed monthly report. Mayor Beck reported that the Chamber had also provided a good report earlier.

The sixteenth order of business was Information Items.

Mayor Beck reported that he had received a letter from Mayor Danner from Hondo stating that he had been notified by Congressman Ciro Rodriguez' office that \$250,000 of the total request for \$340,000.00 for the funding of the Battered Women's Shelter has been approved. He encouraged the Council to express their appreciation by writing a thank you note to Congressman Rodriguez, if they get an opportunity.

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Mayor Beck also mentioned that back on October 13, 2006, Tammy Alanis got a petition signed for Park Improvements. Some of the items requested were: installation of restroom facilities, repair of play structure with more age appropriate equipment, installation of lighting, installation of new recreational facilities, and installation of grass with irrigation system. She managed to get 311 signatures, which also included the signatures of Judge Joe Briscoe and June Aubrey Briscoe. Mayor Beck said these are improvements he feels we need to look at in the future.

Interim City Administrator Dora V. Rodriguez told Mayor Beck that we've already looked into this, especially the restrooms. The bid we received was for \$60,000. She informed him that she tried to get a grant and explained the point system; she said if it's for restrooms only and it's not a new park, they won't award you the grant. She said she tried different ways but it was left up to Council. Director of Public Works Billy Grote told Council that the reason the cost was so high is because we found out the restrooms would need to be ADA compliant.

Sandy Herrera commented that as a resident of that area, she objects to the restrooms because it would just give the kids another place to hide, unless they get locked up at night. In her opinion, we would be wasting our money.

Mayor Beck stated that 311 people signed the petition so it's worth looking into it again in the future.

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

Mayor

City Secretary