

Minutes
Regular Council Meeting
October 19, 2010

On this 19th day of October 2010, 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 William L. Herring
Alderman John Ramirez
Alderman Hal Lance
Aldерwoman Marina Antu
Aldерwoman Kathy Wilkins
Aldерwoman Gina Champion

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Ofilia Pedroza, Assistant City Secretary; Rob Flores, Chief of Police; Nancy Pepper, City Accountant; Billy Grote, Director of Public Works; Barbara Moore, Library Director; and Darrell Rawlings, Code Compliance Officer; and Russell Crossland, City Mechanic.

Others present: Kevin Langley and Donny R. Whitaker-Medina County Sheriff's Office; Sandy Herrera-Devine News; Tom Key-United Methodist Church; John Ward-Evergreen Cemetery; Dan & Carol Conner; Larry & Sandra Stacy; Steve A. Lopez; Mary Jane Balderrama; Robert Morales; Mary Pickell; Richard Herrera; Sonia J. Lance; Jason & Barbara Pilbin; M. Cheri Ramirez; Chris & Heather Miller; Ernest Munoz; and Dorothy Ward, all of Devine, Texas.

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 Recognition.

There was no recognition at this time.

The second order of business was the Visitors/Citizens Forum.

Mr. Larry Stacy had some opening comments to the City Council about an independent survey on the Council which he took upon himself to research on the issues of ignorance, arrogance, indifference and inconvenience. He expressed to Council that we have the amazing abilities for selective hearing, selective memory and selective seeing. He directed to the Council that they were elected because we trust them to leave their personal agendas at the door, to look through arrogance, ignorance, indifference and inconvenience to see the real issues; and we elected them because we trust them to make the right decisions.

Council thanked Mr. Stacy for his comments.

Regular Meeting Minutes
October 19, 2010
Page 2

The third order of business was the approval of Minutes: Regular Meeting, September 21, 2010.

City Council reviewed the minutes.

Motion made by Alderman Ramirez, seconded by Alderwoman Antu to approve the Minutes for Regular Meeting, September 21, 2010.

Ayes	--	All
Nays	--	None

Motion carried.

The fourth order of business was to discuss and consider adopting Proclamation for Municipal Court.

Mayor Herring read the proclamation out loud.

Motion made by Alderman Ramirez, seconded by Alderman Lance to adopt Proclamation for Municipal Court.

Proclamation attached as Exhibit A.

Ayes	--	All
Nays	--	None

Motion carried.

The fifth order of business was to discuss and consider request from the Greater Devine Chamber of Commerce for a Noise Variance for the Fall Festival Street Dance, November 6, 2010.

Chief Rob Flores addressed City Council on behalf of the Chamber of Commerce. He reminded them that this is something that we do every year. He doesn't have a problem with it. He also mentioned that the Chamber has also already contacted him about the street closures for that day and he will be taking care of that.

Motion made by Alderman Ramirez, seconded by Alderwoman Antu to grant the Greater Devine Chamber of Commerce permission for a Noise Variance for the Fall Festival Street Dance to be held November 6, 2010.

Ayes	--	All
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider request by Mary Jane Balderrama about speeders and open containers.

Regular Meeting Minutes
October 19, 2010
Page 3

Ms. Mary Jane Balderrama came before City Council to request that something be done about the on-going problem we have with speeders and open containers specifically along Allman Road. She requested the help of Chief Flores in coming up with a plan to help keep this problem under control. She said that other streets to watch are Coker, Ingram and Windy Knoll, especially by the city park. She wants the word out that this will not be tolerated anymore, no matter which road it is; they need to know that we will be watching. She suggested that a police officer park once a month and start issuing tickets and to alternate roads. Chief Flores agreed that this problem is all over town and with the amount of officers that we have for the size of our city; they try to do their best in patrolling. Ms. Balderrama felt that by patrolling just one day randomly out of the month might be a clever idea because then they wouldn't know which night the police would be out. This may work better rather than trying to patrol everybody at the same time.

Mayor Herring thanked Ms. Balderrama for her comments and suggestions and told her we would involve our police department on this, and would get back with her.

The seventh order of business was to Discuss and consider the following:

- a. Rescinding motion for Speed Bump on Jack Nicklaus
- b. Approving a Speed Bump for Jack Nicklaus and amending Budget.
- c. Denying a Speed Bump for Jack Nicklaus.

Mayor Herring provided a brief background on the speed bump issue. He stated that at a Special Meeting held on August 23, 2010, Mr. Larry Stacy had requested that a speed bump be installed on Jack Nicklaus Drive. Mr. Stacy had informed City Council that there are a lot of speeders, especially around the bend, and also a lot of children that ride their bicycles on Jack Nicklaus Drive; and he said someone is going to get hurt. Alderwoman Champion requested that this item be tabled until the next meeting to give Public Works and the Police Department ample time to research the situation and see what the best idea would be. Council then motioned to have Public Works, the Police Department and the citizens of Jack Nicklaus meet and determine where the speed bump needed to be placed. Public Works was not authorized to place one anywhere, and we did not specify how we were going to pay for it.

- a. Rescinding motion for Speed Bump on Jack Nicklaus

Councilman Lance inquired Council if anyone has looked into where the speed bump should be placed. In his opinion, he felt it should be located directly opposite Mrs. Davis's address prior to the old cul-de-sac. Alderman Lance also expressed his concern over the way this item was worded on the agenda. He asked "Why should we rescind anything that was passed unanimously?"

Discussion was then held with City Attorney Tom Cate. He explained to Mayor Herring that if the only business to care of on that motion was simply to locate the speed bump and there was no motion to actually install it, if we rescind the motion, all we would be rescinding is the authorization for that group of individuals to go out to see where it should be located.

Mayor Herring then advised that there would be no need to take any action to rescind the motion on Item 9a Rescinding motion for Speed Bump on Jack Nicklaus.

- b. Approving a Speed Bump for Jack Nicklaus and amending the Budget.

Regular Meeting Minutes
October 19, 2010
Page 4

Mr. Ernest Munoz addressed City Council as the representative for five families of Jack Nicklaus in favor of the speed bump. He pointed out some issues, namely:

- First and foremost is the safety of their children. Four of the five families have children under the age of 10 years.
- Mentioned that in today's environment, they encourage children to go outdoors run and play instead of playing video games inside.
- What was the intent of the motion and the vote that night? He believes the intent was to place the speed bump; it was just a matter of fact of gathering the citizens together with the Police Department and Public Works to establish a location.
- In his opinion, Council has a fiduciary duty and a liability to pass the speed bump to assure safety not only to their children and the citizens of Jack Nicklaus who live in the cul-de-sac, but also to joggers, walkers and golfers who frequent their neighborhood.
- Where was the opposition to voice their opinion on August 23rd when this was passed? Mr. Stacy has been addressing this issue for well over a year, and there has never been any opposition.
- He told Council that if they don't pass this tonight, that they will be setting up a precedence that once they make a decision to do something, they would also be allowing the citizens to come forward later before Council.
- Reducing the speed will not quantify or solve the problem; the only resolution will be the speed bump to slow down the speeders.
- He pointed out that Chief Flores and Ms. Mary Jane Balderrama had both admitted earlier that we do have a city-wide problem with speeders, and that includes Jack Nicklaus.
- Spoke of blind spot in the area and of speeders with open containers being a formula for disaster.
- Referred to Mr. Stacy's opening remarks, "we trust you and we commend you for the time and investment you've made to represent the City." Now, we just want you to make the right decision, to keep Jack Nicklaus safe.

Mr. Dan Conner then addressed City Council in opposition of the speed bump. He made the following points:

- He objected with the manner in which this was presented and voted upon on August 23rd. He feels the vote was not legitimate because two people abstained because they were confused.
- He asked "Why don't we have a policy in force?" "Why don't we have an application process, a permit fee and do a study before approving speed bumps?"
- Recommended that we should not take any more speed bump requests until there is an established written policy.
- Let's enforce the speed limit, or lower the speed limit. He suggested it would be much better to put a 20 mph speed limit sign on Jack Nicklaus.
- Never seen a policeman in that area writing a ticket; feels we don't have a speeding problem.
- Told Council that if they weren't going to rescind the motion; they certainly shouldn't fund it. Speed bumps are costly, and we need to be fair with everybody.
- If Council puts a speed bump on Jack Nicklaus, they would need to place one every 50 feet to be effective.
- It's dangerous for motorcycles and golf carts.

Regular Meeting Minutes
October 19, 2010
Page 5

City Council held brief discussion on the number of speed bumps requested in the last three years. There have been eight. Alderman Lance inquired on whether the speed bumps have actually helped to reduce the speed or reduce the traffic. Chief Flores commented that we did have some issues with the very first speed bumps that were installed. They have been fixed. He said the traffic hasn't stopped but it has slowed down the traffic. Chief Flores wanted it known that he is not for or against the speed bumps. However, he stated that placing just one speed bump isn't going to help; you need one placed every 50 yards in order to help reduce the speed.

When asked by Alderman Ramirez about his view on helping to fund the speed bump, Mr. Ernest Munoz informed City Council that he personally wouldn't be opposed to help fund it but in his personal opinion, the City shouldn't make the citizens pay for it. However, he is willing to get with the citizens of Jack Nicklaus to come up with ways to fund it; right now they are just asking for Council's vote. Alderman Lance added that he is also prepared to give his \$100 stipend for November towards this speed bump.

Director of Public Works Billy Grote informed City Council that the total cost for a speed bump, including the signs and labor is \$1,335.11.

Alderman Ramirez discussed that there were some good points brought up by Mr. Conner, especially the idea of an application process and doing a study. He pointed out that before there were hardly any speed bumps requested and then, all of a sudden, we went speed bump crazy.

Mr. Connor was allowed to make his final comments. Mr. Connor told Council that the speed bumps which the City has installed are terrible; they are the cheapest, bottom-of-the-line. In his opinion, if the City installs decent quality speed bumps, maybe the citizens wouldn't be so upset; however, they will cost money.

At 7:55 p.m., Mayor Herring announced to the public that the Council would go into a Closed Session Pursuant to Provision of the Open Meeting Law §551.071, Consultation with Attorney. At 8:25 p.m., Closed Session was opened to the public.

No action was taken in Closed Session.

The eighth order of business was to Reconvene into Regular Session and Consider Action, if any, on Items discussed in Closed Session.

Mayor Herring commented that we won't consider any more speed bumps until we have a policy in place and no action will be taken on any more requests; hopefully we can have the policy in place by December.

Regular Meeting Minutes
October 19, 2010
Page 6

Motion made by Alderman Ramirez, seconded by Alderwoman Wilkins to allow Public Works to install a speed bump on Jack Nicklaus with the understanding that the citizens who want the speed bump pay \$500 toward the cost, and the remaining balance of the cost to be paid by the City by amending the budget.

Ayes	--	All
Nays	--	None

Motion carried.

It was noted that Alderman Lance voted “aye” under duress and he wanted it known that his \$100 stipend for November will go towards the speed bump.

c. Denying a Speed Bump for Jack Nicklaus.

No action taken.

The ninth order of business was to discuss and consider request by Tom Key to waive Building Permit for the Methodist Church.

Mr. Tom Key addressed City Council and asked for Council to do the same that we did for the Lutheran Church. He spoke to Council briefly about their very small and inadequate restrooms. They have gone through an extensive planning period over the last couple of years, and the most important thing they can do to improve the facilities is to install new additional restrooms. They are currently out for bids and are requesting a waiver on the permit fees from the City, recognizing that there will be a requirement for inspections. Part of the inspections on the foundation and the structural part, in addition to what the City needs to do, will be performed by the structural engineer out of San Antonio.

Council held discussion with Code Compliance Officer Darrell Rawlings. He told Council that our City Inspector Troy Martin has looked over the plans, and is estimating around 15 inspections to do for the City.

Motion made by Alderwoman Champion, seconded by Alderman Ramirez to waive all permit fees, less the inspection fees for Troy Martin, for the Methodist Church.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider request by the Evergreen Cemetery Association – John Ward – on a Joint Fencing Project with the City.

Regular Meeting Minutes
October 19, 2010
Page 7

Mr. John Ward addressed City Council on behalf of the Evergreen Cemetery Association Board of Directors. For the past 6-8 months, they've been talking about putting up a different type of fence in the back of the cemetery since the cemetery has been continuously destroyed by cars running into the fence. He held discussion with Council on the preferable type of fence they want. City Attorney Tom Cate advised that the City can do the fence with the stipulation that the fence is on city property. Mr. Ward told Council that the part they are proposing is the straight 500 ft. that runs along Allman Road. He has coordinated with Director of Public Works Billy Grote to do this, and the cemetery would pay the City to do the installation. The cemetery association would be removing the existing pipe fence before the City installs the new fence. Mr. Ward asked City Council to approve for the city workers to install the fence, with the cemetery providing the materials and paying for the whole cost, at no cost to the citizens. Discussion was also held on the cemetery planning on putting up reflectors on the poles every 250 ft. stretches.

Director of Public Works Billy Grote stated that he had no problem with this. Mayor Herring advised that this project will be done at the City's convenience but it will be a prioritized item, and the City will coordinate with the cemetery organization.

Motion made by Alderwoman Antu, seconded by Alderman Lance to allow Public Works to install a fence on Allman Road for the Devine Evergreen Cemetery with the understanding that all costs be paid for by the Devine Evergreen Cemetery Association.

Ayes	--	All
Nays	--	None

Motion carried.

The eleventh order of business was to discuss and consider Adoption of the following 2009 International Codes: Building Code; Residential Code for One-and-Two Family Dwellings; Fire Code; Plumbing Code; Mechanical Code; Energy Conservation Code; Fuel Gas Code; Existing Building Code; and, Property Maintenance Code.

Code Compliance Officer Darrell Rawlings addressed City Council. He explained that in the interest of continuing to move forward in building construction and new code requirements, many of the other cities in the County have gone to these 2009 International Codes. He explained that there a few changes but the main issue that has been raised on the 2009 Residential Code for One-and-Two Family Dwellings is that all one-and-two family homes need to have a residential sprinkler system. He told Council that the state legislature has passed a law that this is optional for residential homes under 7,500 square feet; it's at the owner's discretion. So, no city can enforce this and it won't be a big issue for us in our city because it would be at the option of the homeowner by state law.

The only other issue per Mr. Rawlings is on the portable, storable pools. He explained that we do not require permits for these. He said they don't go out and inspect them; they don't charge any fees. They only provide the public with information on the screening requirements and if they see that it is an issue where a child can get into the pool, while they are out patrolling, then it is addressed. He explained that the International Building and Residential Codes are pretty much the same as we have in effect now as is the Fire Code, Plumbing Code, and Mechanical Code. On the Energy Conservation Code, the 2003 edition is what is mandated by the state; there's not a significant difference between 2003 and 2009 that

Regular Meeting Minutes
October 19, 2010
Page 8

he is aware of. He told Council that he has published the required notices to increase public awareness that we are looking at adopting these codes, and he's had no opposition or citizen input.

He said the Property Maintenance Code is something that we hadn't adopted before but in light of recent discussions that have been held about tree limbs over street right-of-ways, the height of branches over sidewalks; those items are included in this as with high weeds, trash, rubbish, accumulations. Code Compliance Officer Darrell Rawlings told Council that many of our ordinances are over 20 years old regarding this. He said the ordinances have a more modern language in this code, and feels it would be a benefit to us to go ahead and adopt them and come up to a standard that's just starting to come into play throughout the country.

Mayor Herring inquired of City Attorney Tom Cate that if these codes are adopted, whether we would be able to go back and make exceptions to them. City Attorney Tom Cate informed Council that we would be able to go back and make exceptions. He said that not everything is going to fit for the City of Devine so we'll have to fine-tune these codes as we go along, but we have to start at some point and this is just a beginning. Code Compliance Office Darrell Rawlings agreed.

Motion made by Alderman Ramirez, seconded by Alderwoman Champion to adopt the 2009 International Codes with the understanding that we can go back and modify them to fit the City of Devine.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to discuss and consider the working condition of Devine Police Department Vehicles Unit 4 and Unit 6.

Chief Flores addressed City Council on the problems he's been having with the two vehicles since their purchase two years ago. Council reviewed a detailed list of expenses incurred by both vehicles; \$5,176.85 for Unit 04 and \$1,500.54 for Unit 06. He told Council it's been one thing after another and they are both out of service right now. With these two units down, we have limited vehicles to use and with the Fall Festival coming up; we only have three Devine units to use to block the entire city. The Sheriff's Office has been helping us out as well as the Constable, and Natalia.

Mr. Russell Crossland, city mechanic, told Council the vehicles have been to three different dealerships and they can't find out what the problem is. He said the main issue is the safety of the officers.

Chief Flores proposed that he needs two vehicles preferably, but one would do. Lengthy discussion was held on Chargers and Crown Victorias.

Medina County Chief Deputy Kevin Langley and Lieutenant Donny Whitaker came before Council to offer their input on the problems they have experienced with the County vehicles. Some of the things they pointed out to Council were:

Regular Meeting Minutes
October 19, 2010
Page 9

- Suggested for the City to stay away from Chargers. The biggest mistake they (the county) did was the purchase of Chargers.
- Dodge – Their equipment restricts you in movement. Their brake pads are very small and will require to be replaced every 4-6 months, as well as the rotors and the motor mouth. It can be very expensive.
- Ford Crown Vics – 2011 is the last year they will be made but they are already all spoken for; you can't get them right now.
- Suggested for the City to consider the resale value; how long the vehicle is going to last and is it a proven vehicle.
- Suggested we need to look at what is going to last us longer for the money in the long run.
- They discussed SSVs (Special Services Vehicles) and told Council the Tahoe is the only SSV that is being made out there that's been approved by the State.
- For the money, the Tahoe is the best deal. The County purchased theirs from Caldwell Chevrolet for either \$24,646 or \$24,463. They got the bare working essentials and later got them equipped. They spoke in detail about the Tahoe and additional equipment that they purchased. After all the additional equipment, the total cost for each unit came out to \$39,000.

Council thanked the officers for coming down and providing this information.

Interim City Administrator Dora V. Rodriguez advised City Council that the budget is set and we do not have these vehicles budgeted, so we would need to amend the budget. Discussion was also held on grant monies which is very difficult to get.

Chief Flores expressed to Council that he needs two vehicles but would be happy with one as long as we continue with the rotation program. Council discussed needing to look at prices and starting with just one vehicle. Chief Deputy Langley said he would get with Chief Flores the next day to give him a list of prices.

Motion made by Alderman Ramirez, seconded by Alderman Lance to table this item until next week for a special meeting, pending prices from Chief Flores.

The thirteenth order of business was to discuss and consider Amending Chapter Six – Section 6.7 – Outside Employment.

Alderwoman Wilkins informed Council that she had requested for this item to be placed on the agenda, and requested that this item be removed from the agenda with no action to be taken.

Mayor Herring granted request. No action was taken.

The fourteenth order of business was to discuss and consider appointing Polly Edlund to serve on the Board of Managers of the Medina County 911 Emergency Communications District.

Mayor Herring commented that he and Alderman Lance both know Ms. Edlund very well and she runs a number of ESD's. He stated that she is good at what she does and highly recommended her for this position.

Regular Meeting Minutes
October 19, 2010
Page 10

Motion made by Alderman Lance, seconded by Alderwoman Antu to appoint Polly Edlund to serve on the Board of Managers of the Medina County 911 Emergency Communications District.

Ayes	--	All
Nays	--	None

Motion carried.

The fifteenth 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).

- §551.074 Personnel Matters – Hiring a City Administrator.

At 9:15 p.m., Mayor Herring announced to the public that the Council would go into a Closed Session. At 9:27 p.m., Closed Session was opened to the public.

No action was taken in Closed Session.

The sixteenth order of business was to Reconvene into Regular Session and Consider Action, if any, on Items discussed in Closed Session.

No action was taken.

The seventeenth order of business was to discuss and consider Amending and Reviewing Investment Policy.

City Accountant Nancy Pepper addressed City Council as they reviewed the Investment Policy. She said the Investment Policy is something Council needs to review annually. She told Council there were some changes. She said mainly there were three things they looked at on where to invest the money: (1) how safe the principal would be; (2) being able to have liquidity so we could have enough of it so we could pull the funds in and out; and the type of return (interest) we are getting. They wanted to add diversification to the policy so all of your funds are not held in one type of fund or bank or depository. She also explained that anything we have over FDIC insurance needs to be pledged by securities by the bank stating that they will make sure they have enough pledged securities to take care of our investments. A monthly report from the bank shows us how much we had in FDIC insurance, which is different than the \$250,000; it depends on the type of accounts we have. She told Council that we had \$1,300,000 this last month but over that we needed another \$2,000,000 for pledged securities. She explained the securities have to make a total of 102% rather than 100% so that it will take care of any unearned interest that has not been paid into the account yet.

City Accountant Nancy Pepper also told Council that there are some banks that will not do the collateralization; they don't want to do the pledged securities, so we need to really look at this. She told Council we also need to go out for bids on banking services. She also noted that each bank has to sign this Investment Policy, even if we only get a CD with them.

Regular Meeting Minutes
October 19, 2010
Page 11

Motion made by Alderwoman Champion, seconded by Alderwoman Wilkins to approve amending the Investment Policy.

Ayes	--	All
Nays	--	None

Motion carried.

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

Council reviewed Quarterly Report only; no action taken.

The nineteenth order of business was to discuss Reports; namely:

- City Secretary's Report – Council reviewed report.
- City Treasurer's Report – City Accountant Nancy Pepper informed Council that she is getting ready for the auditors.
- Public Works – Director of Public Works Billy Grote reported that the Street Department has been doing a lot of cleaning around town. They are in the process of installing the lights at the park restrooms which are almost complete. He reported that the radio unit went out on the beacon at the airport, and it had to be sent out for repair. Also, drainage at Renfro was clogged up and Public Works cleaned it out.

Mayor Herring provided a FEMA update for everyone. He stated that we are not qualifying for any relief funds right now according to Wesley Beck on a television interview. We did not meet the threshold and Judge Barden will be appealing it, hoping to get it overturned. It was noted that during the rain we got, none of the houses along the creek flooded because of a job well done by Public Works.

- Police Chief's Report – Chief Flores informed Council that he did speak with Chief Deputy Kevin Langley just now. He reported that we are going to use three of his units to go out and run a saturation patrol over in the Jack Nicklaus area; specifically traffic patrol. Because of the curve on Jack Nicklaus, Chief Flores told Council that what they need is a hand-held radar unit. He held discussion on this with Council but they run about \$10,000. It was also noted that disturbances have also been increasing; it's just that time of the year. Mayor Herring informed everyone that the police cars will be on the agenda at a special meeting next Thursday. Chief Flores reported that Animal Control has also been very busy.
- Driscoll Public Library – Library Director Barbara Moore reported that they had Art Fair last Saturday with 25 entries. The theme was "The Heart of Devine – What Makes Devine Special," and the grand prize winner was a child who drew a picture of Eddie Hutzler, so this was unique and very special for Devine. Everyone agreed.
- Chamber of Commerce – Sandy Herrera reported that everything is going well with the Fall Festival. They currently have 25 arts & crafts booths and 11 food vendors. She said that Sandy Wilson is handling the Scarecrow Contest and she's getting a lot of entries for that as well as for the Parade will be on November 6th beginning at 10:00 a.m.

Regular Meeting Minutes
October 19, 2010
Page 12

The twentieth order of business was Information Items.

There was nothing to discuss under this item.

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

Ayes	--	All
Nays	--	None

Motion carried.

Mayor

City Secretary