

Minutes
Regular Council Meeting
October 21, 2014

On this 21st day of October 2014, 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 Kathy Wilkins
Alderman Steve A. Lopez
Alderman David Espinosa

Absent being: Alderman Hal Lance and Alderman David Valdez; thus, constituting a quorum.

Personnel present: Gary Pelech, City Administrator; Dora V. Rodriguez, Assistant City Administrator/City Secretary; Denise Duffy, City Accountant; Ofilia Pedroza, Clerk; and Tom Cate, City Attorney.

Others present: Johnette Dixon-Medina County Appraisal Office, Hondo, Texas; Stacy Cantu-Devine News; John McCormick and Richard Stein-Devine Little League; and Sonia J. Lance of Devine, Texas.

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 Visitor/Citizens Forum.

- Johnette Dixon addressed City Council and introduced herself as the newly appointed Chief Appraiser for Medina County. She spoke of wanting to continue the good relationship the Appraisal District has with the City of Devine and said they will continue to monitor our property values and she looks forward to serving the citizens of Medina County in her new capacity.
- Stacy Cantu introduced herself as a new reporter for the Devine News. She said this was her first meeting and would be covering our meetings in the future.

The second order of business was Recognition.

- Wal-Mart – Mayor Herring recognized Wal-Mart and mentioned that out of 14 grand openings in the United States that day, Devine was #1 in the entire nation in sales. Our goal was \$125,000 and we exceeded our goal with \$281,000 in Sales. Mayor Herring thanked all the employees and council members who worked on that and said it was a team effort.

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The third order of business was to discuss and consider Adopting a Proclamation for Breast Cancer Awareness for the Month of October, 2014.

Mayor Herring read the proclamation aloud.

Motion by Alderman Lopez, seconded by Alderwoman Wilkins to Adopt Proclamation for Breast Cancer Awareness for the Month of October, 2014.

Proclamation attached as Exhibit A.

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| Ayes | -- | Three |
| Nays | -- | None |
| Absent | -- | Two – Alderman Lance, Alderman Valdez |

Motion carried.

The fourth order of business was to discuss and consider Approval of Minutes: Special Meeting/ Public Hearing, September 16, 2014; Regular Meeting, September 16, 2014 and Special Meeting, September 23, 2014.

City Council reviewed all the minutes.

Motion by Alderman Espinosa, seconded by Alderman Lopez to Approve the minutes for Special Meeting/ Public Hearing, September 16, 2014; Regular Meeting, September 16, 2014 and Special Meeting, September 23, 2014.

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| Ayes | -- | Three |
| Nays | -- | None |
| Absent | -- | Two – Alderman Lance, Alderman Valdez |

Motion carried.

The fifth order of business was to discuss and consider Approving Contract between the City of Devine and the Devine Little League Association.

Mayor Herring welcomed John McCormick and Rick Stein to the meeting who have both been working very hard with the Devine Little League; Mr. McCormick has been with the Devine Little League for 38 years.

Mayor Herring read the proposed contract aloud and noted that the changes in red ink were done by Attorney Bobby Jack Rushing. He told John McCormick and Rick Stein that this is just a start and is by no means the final copy.

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Mr. John McCormick and Mr. Rick Stein informed Council that a new board of directors will be finalizing the contract. Mayor Herring added that as soon as the new board is in place, he wants them to schedule a meeting with him and Gary, City Administrator; and Dora, City Secretary, to begin working on the contract which, of course, would need to be approved by City Council. According to Mr. Rick Stein, the current board is still in place until the finalized elections. Mayor Herring stated that he hated for Council to make an agreement right before the new board is elected and then have to go back in again to make changes. He said that even though we had a quorum, he still preferred to have all council members present to represent the entire city and to make sure we give them a fair vote; therefore, he is recommending to table this item until further discussion, and not agree to anything tonight, especially if we are placing restrictions on the contract.

Mayor Herring then proceeded to go over the changes (*in italics*) to the proposed agreement, namely:

- #3 of the contract – City will provide the Water & Sewer, *up to the maximum of ___ gallons of water in any calendar month.* John McCormick asked City Administrator Gary Pelech if he had a figure on the approximate number of gallons of water they use for the month. He explained that what they normally use in water, he's able to cut down usage by 60% by watering by hand. City Administrator Gary Pelech said he can give him this information and explained that we don't want to take anything away from them because they have the field looking very nice but we only want to make sure that because of the drought situation we are in, that they are a little more conservative and water conscience.

Brief discussion was held on the Edwards Aquifer Authority. Mr. Rick Stein inquired as to having a set maximum number of gallons set in the contract, and asked what would happen if the City were to come out of Stage 4 restrictions and go Stage 1, because they would still be limited to only a maximum amount of gallons of water per the contract. Mayor Herring mentioned that there is nothing that would prevent us from giving them a waiver on the contract as long as they come before Council. Mayor Herring explained that, again, this is just a starting point for negotiations and the Council has not even decided on a set number of gallons. City Administrator Gary Pelech added that this Council can set the limit of gallons of water and they can also change that amount.

- #4 of the contract – The term of the contract shall commence on *October __, 2014*, and shall continue in full force and effect until September 30, 2014. Mayor Herring stated that here we are talking about limiting the agreement to one (1) year. He said currently it is at five years, but the term can be increased or decreased.
- #5 of the contract – The Devine Little League Association in consideration of the leasing of the premises aforesaid by the City of Devine does agree to pay as rent for said premises the sum of one (\$1.00) dollar cash. The receipt of which is hereby acknowledged as full payment for the entire term of the lease. *In the event the Little League uses more than ___ gallons of water in any calendar month, the City will bill the Little League for the excess amount of water at the per gallon rate set by the City for regular service within the City. Failure to pay a water bill within 30 days for*

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usage above the maximum amount allowed herein shall constitute a default under this agreement. Mayor Herring added that this language was recommended by Attorney Bobby Jack Rushing, and stated that this is up for discussion; nothing is final.

- #8 of the contract – The Devine Little League Association must provide the City of Devine with proof of *General Liability* Insurance *each year prior to November 1, with the minimum amount of insurance of \$_____ per occurrence and \$_____ in the aggregate. The insurance certificate shall list the City of Devine as an additional insured.* City Administrator Gary Pelech added that this is the reason why the City prefers to go with a one (1) year term. He said that it is nothing against the Little League but explained that if, for example, we agree to a three (3) year contract, we probably won't remember to ask for it next year, and the Little League Board may forget to put us down as an additional insured which could present problems in the future with insurance. He said that it is not hard for us to go back and renew the contract each year; this way we can always ask for a copy of the insurance just to make sure that the City is listed as a third party insured. Mr. Rick Stein informed Council that they can give the City a copy of their insurance prior to November 1st but their insurance actually renews after the New Year. City Administrator Gary Pelech added that we can work this out between Council and the new Board, and may even change the date if needed, as long as the City is listed as a third party insured.
- #9 of the contract – The Devine Little League hereby agrees to indemnify the City of Devine, its officers, agents, and employees, and hold harmless said City of Devine, its officers, agents, and employees from any and all causes of action arising out of the performance of said League duties under this contract. Mr. Rick Stein told Council that this was very vague concerning early termination. City Administrator Gary Pelech explained that this is something we will need to coordinate with City Attorney Tom Cate so it can be more specific.
- #10 of the contract – *By signing on behalf of the Devine Little League Association, the undersigned represents he or she has been given full authority to bind the Devine Little League Association to the covenants and agreements contained herein.* Mayor Herring explained that there is no severability clause as we have on other contracts, where either party can terminate the contract upon 30 days written notice to the other. Mayor Herring inquired if this wording was necessary. City Attorney Tom Cate stated that if both parties agree, a severability clause can be put in the contract; he said most of our contracts have that wording in there, for early termination. He also explained that the City can also terminate the contract if they don't comply with paying their water bill, so it wouldn't make that much of a difference if the clause was added to the contract.

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Alderman Espinosa inquired into having background checks done on the core of the Devine Little League Association and kept on file, since every year new members are elected. He wanted to know if this is something that the City can do. City Attorney Tom Cate informed him that he would prefer that the City not get involved in that and to let that be up to the Little League. Mr. John McCormick added that by Little League rules, only the president of the association can seek background checks; everything is private and kept locked up by the president and destroyed at the end of the year.

City Attorney Tom Cate commented that he feels it's a good plan to have the City and the Little League get together to work out the terms of the contract, and said it's also a good idea to wait for the new board of directors to come on board.

Mayor Herring and City Administrator Gary Pelech both thanked Mr. John McCormick and Mr. Rick Stein for everything that they have done for the Devine Little League because it is a very thankless job.

City Administrator Gary Pelech mentioned that he would like to sit with City Secretary Dora V. Rodriguez and Mayor Herring to meet with the new board and try to work something out, and then bring it back before Council to let them know what they have come up with, to see if Council agrees.

Motion by Alderman Lopez, seconded by Alderwoman Wilkins to table this item until further review and discussion with the Devine Little League, and after the election of the new Board of Directors.

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| Ayes | -- | Three |
| Nays | -- | None |
| Absent | -- | Two – Alderman Lance, Alderman Valdez |

Motion carried.

The sixth order of business was to discuss and consider Adopting an Ordinance of the City of Devine adopting the 2014 Edition of the National Electric Code, which shall apply to all residential and commercial electrical construction applications in the City of Devine; providing for the issuance of permits and collection of fees, therefore; repealing all ordinances and regulations in conflict and that this ordinance is cumulative of all other ordinances of the City not in conflict with the provisions of this ordinance.

Mayor Herring commented that this is basically the 2014 version of the 1999 National Electrical Code. City Council reviewed ordinance.

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City Administrator Gary Pelech directed Council's attention to Section 2. He told Council that we are adding the following wording: *"No electrical wiring or connectors in any permanent application may be made of aluminum nor of a size smaller than 12 gauge."* He explained that we've been getting some flack from Bureau Veritas that we don't have anything in our codes to make sure that people abide by that. He said that this is one of the main issues in addition to having a lot of safety issues that have come up since 1999 that have changed but we haven't gone along with, so this should take care of it. He told Council that we should probably do this every five years.

Council reviewed and discussed that Code Compliance Officer Darrell Rawlings is up to par on this. City Administrator Gary Pelech added that anything in place now is grandfathered but anything we re-do needs to be done per code.

Motion by Alderman Espinosa, seconded by Alderman Lopez to Adopt an Ordinance of the City of Devine adopting the 2014 Edition of the National Electric Code, which shall apply to all residential and commercial electrical construction applications in the City of Devine; providing for the issuance of permits and collection of fees, therefore; repealing all ordinances and regulations in conflict and that this ordinance is cumulative of all other ordinances of the City not in conflict with the provisions of this ordinance.

Ordinance 10-14 attached as Exhibit B.

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| Ayes | -- | Three |
| Nays | -- | None |
| Absent | -- | Two – Alderman Lance, Alderman Valdez |

Motion carried.

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

Council reviewed. City Administrator Gary Pelech informed Council that everything looks good and we are in good shape especially for the beginning of a new fiscal year, thanks to City Secretary Dora V. Rodriguez, City Accountant Denise Duffy and City Financial Officer Mary Badillo.

The eighth order of business was Informational Items.

- Thank You Letters:
 - Mayor Herring read aloud a thank you note from Gary & Roselyn Pelech (her mother passed away) for the beautiful plant they received from the Mayor, City Council, Police Department and office staff.
 - Mayor Herring read aloud a thank you note from Eloise Cubriel thanking the City, office staff and City Secretary Dora V. Rodriguez for the many years of service during their time here in Devine. She thanked City Council for their support on

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- their requests for various issues. She praised City Secretary Dora V. Rodriguez, and offered her a heartfelt thanks.
- Mayor Herring also read a thank you note from Melissa Nemeitz, a Wesley Nurse from the Methodist Church, thanking all of us for everything done in regards to the food pantry. She shared that the Devine Food Pantry is going to associate with the San Antonio Food Bank based on a lot of encouragement from City Council, Mayor and city staff. This is going to increase the amount of food that is coming in. They will now be able to serve the people of Devine once a month
- There will be a Tire Round-up on Saturday, October 25, 2014 from 8:00 a.m. to 4:00 p.m. at the County Annex Building for the Devine/Natalia area. This will be a free event.
- Electrical Recycling Program will be held on Saturday, November 22, 2014, from 8:00 a.m. to 4:00 p.m., also at the County Annex Building. This will be for computers, monitors, televisions, and other electronics. Commissioner Jerry Beck is planning on attending our November council meeting to explain in more detail.
- Alderman Lance had been called to assist FEMA and will be coming home this Thursday.
- Mayor and Council welcomed back City Attorney Tom Cate.
- Mayor Herring announced there is an ESD #2 meeting tonight at 7:00 p.m. and invited all to attend.

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

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| Ayes | -- | Three |
| Nays | -- | None |
| Absent | -- | Two – Alderman Lance, Alderman Valdez |

Motion carried.

Mayor

City Secretary