

Minutes
Regular Council Meeting
August 16, 2016

On this 16th day of August 2016, 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
Alderman Steve A. Lopez
Alderman David Valdez

Absent being Alderman David Espinosa; thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/ City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; Kandy Benavides, Chief of Police; Lt. Chris Andrews; Tyler Lawrence, Animal Control Officer; Ismael Carrillo, Director of Public Works; Barbara Moore, Library Director; Raul Garcia, City Engineer; and Ofilia Pedroza, UB Clerk.

Others present: Marly Davis, Devine News; Charles O. West; Krista and Stella Aguero; Nakita Guerrero; Anna Gonzales; Doug Trott; Larry and Sandy Stacy; Vernon Hall; Lupe Fernandez; Arturo Gonzalez; and Sonia J. Lance, Devine, Texas.

Mayor Herring presiding, called the meeting to order. He also delivered the Invocation and led the Pledge of Allegiance.

The first order of business was the Visitor/Citizens Forum.

No one spoke under this item.

The second order of business was Recognition.

- Movie Nights – Mayor Herring thanked and recognized everyone involved in helping out with the movie nights, to include sponsors and employees.

The third order of business was to discuss and consider approval of Minutes: Regular Meeting, June 28, 2016; Special Meeting, June 30, 2016; Regular Meeting July 19, 2016; Special Meeting August 2, 2016; and Special Meeting August 9, 2016.

Council reviewed minutes.

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Motion by Alderman Lopez, seconded by Alderman Lance to approve all minutes.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The fourth order of business was to discuss and consider allowing our Devine Police Department to hold an event for the National Night Out on the first Tuesday of October.

Kandy Benavides, Chief of Police, addressed Council and informed them that we've not had a National Night Out in 25 years so they decided that this year, the police department wants to do something to be able to involve themselves with the community. It will be an opportunity for our kids, especially, to see police officers as nice people and to meet our officers. With that said, Mayor Herring introduced Lt. Chris Andrews and our new Animal Control Officer, Tyler Lawrence to the public. According to Chief Benavides, the event is still in the planning stages but is scheduled for the first Tuesday of October (October 4th) from 6:00 to 9:00 p.m., by the Warhorse Stadium. Interim City Administrator/City Secretary Dora V. Rodriguez added that she is still trying to iron out a few things also, i.e. insurance, etc. More will be publicized on this later.

Motion by Alderwoman Wilkins, seconded by Alderman Lance to allow our Devine Police Department to hold an event for the National Night Out on the first Tuesday of October.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The fifth order of business was to discuss and consider recommendation of the Planning & Zoning Commission for Meeting held on August 15, 2016.

- a. Request made by Arturo Gonzalez for a nine-foot front setback requirement of thirty feet from the front property line for 513 Jack Nicklaus Drive, which bears the following legal description of Devine Oaks Subdivision, Unit 4, Block 1, Lot 7.289 Acres.

Council reviewed map. Mayor Herring pointed out that Mr. Gonzalez has plenty of room except on the far right where his garage is going to be; he needs a nine foot variance to meet the 30 foot setback. He informed Council that there were no objections at the Planning & Zoning meeting last night and the Commissioners recommended to grant him the variance request.

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Motion by Alderman Lance, seconded by Alderman Valdez to approve the recommendation of the Planning & Zoning Commission to grant request made by Arturo Gonzalez for a nine-foot front setback requirement of thirty feet from the front property line for 513 Jack Nicklaus Drive.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The sixth order of business was to discuss and consider allowing Chick-Fil-A to use our parking lot at the community center/library every Wednesday throughout the school year.

Mayor Herring informed Council that this is not affiliated with the School or City in any way. City Attorney Tom Cate advised Council that if the City allows them to do this, we are opening the door for other businesses to come forward and ask for the same treatment, and it's setting a precedence. He said we should abide by it and not play favorites; we need to treat everyone equally.

Council held lengthy discussion on other locations for Chick-Fil-A to use.

Motion by Alderman Lance, seconded by Alderwoman Wilkins to deny allowing Chick-Fil-A to use our parking lot at the community center/library every Wednesday throughout the school year.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The seventh order of business was to discuss and consider for Council to buy an ad for advertising in the magazine Wings over Texas – the approved publication of Texas Wing Civil Air Patrol.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that she is bringing this to their attention because they've been calling her for the City to advertise in their magazine but she did not want to commit the City. She also let them know that we did not budget for this but if it's something Council wants to do, we can budget for it next year.

Council reviewed advertising rates which they felt were too high, and held brief discussion on reasons for doing this and postponing for the next budget.

Motion by Alderman Lopez, seconded by Alderwoman Wilkins to postpone this item for consideration until the next budget cycle, depending on what our budget looks like.

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Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The eighth order of business was to discuss and consider drainage issues for Mockingbird Lane, Wedgewood Way, and King Avenue/Tilley Drive.

Mockingbird Lane:

Council reviewed photographs as Mr. Raul Garcia, City Engineer, addressed Council. He explained at length how during heavy rains, the water goes around the corner through the yard and explained there is a berm there between the pavement and the property. He said that about the only thing we can do is increase the size of the berm; make it higher. He said this will give the water a tendency to go south on Libold Drive and then try to make a turn on Mockingbird Lane. He told Council that water normally does not turn at right angles; it usually circles around. Mr. Garcia stated that his concern is that if we do anything there, the water will go down on the south side of Mockingbird Lane and possibly back into Doug Trott's house. He said we may be helping the property owner on the north side of Mockingbird Lane but we could have water going into the south side property of Mockingbird Lane (Mr. Vernon Hall's property). Due to this situation, his recommendation to Council is that we do nothing at this point because it might help one property owner but it can also hurt the other.

Mr. Vernon Hall addressed Council and told them there is a big pile of sand halfway up the berm and explained that is where the water starts to come through. He told Council that what we need to do is go in with a maintainer and cut that sand about a foot, and put a three foot high retaining wall all the way around there. He said this will stop the water from coming through.

City Engineer Raul Garcia commented that if we put a retaining wall there, it could affect the neighbor downstream.

Council also heard from Mr. Doug Trott who talked about the problems he is having with heavy rains. He stated that he can't see where it will hurt anything by making the berm higher or by putting up a retaining wall.

Council held further discussion with City Engineer Raul Garcia who agreed to give us an estimate for a retaining wall, which he can have for us by our next Special Meeting scheduled for September 6, 2016.

Motion by Alderman Lance, seconded by Alderman Lopez to postpone any action for drainage issues on Mockingbird Lane and Libold Drive pending a cost analysis for a retaining wall by City Engineer Raul Garcia.

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Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

Wedgewood Way:

City Engineer Raul Garcia addressed Council and told them that, again, we have an unfortunate situation with Wedgewood Way. He talked about the existing elevation of the street and the drop from the center of the street to Mr. Fernandez' driveway, to his garage. He spoke of the differential of the driveway and raising the curve up by 14%, just enough to keep the water from going into his driveway. He explained that even if he does this with those percentages, it really won't help the situation much at all.

Mr. Lupe Fernandez held lengthy discussion with City Engineer Raul Garcia and insisted that water takes a right angle into his driveway when Mr. Garcia had mentioned earlier that water does not turn at right angles. City Engineer Raul Garcia tried to explain the difference in the grades of the streets as far as the measurements.

Mayor Herring inquired if there is anything we could do to Mr. Fernandez' yard as far as drainage. According to City Engineer Raul Garcia, the only thing we can do is lower the whole street from Mt. Vernon to Libold Drive maybe 200-300 feet on each side of his driveway to be able to lower the gutter in that area (how much lower to be determined by City Engineer Raul Garcia), and also re-do Mr. Fernandez' driveway; this would mean tearing up the street. Mr. Garcia discussed elevations.

Mr. Fernandez commented that he doesn't understand why we can't just scrape his driveway and blade it six inches right where the crest is, then re-top it two inches with asphalt. According to City Engineer Raul Garcia, the slope of the street would be much more to the point that it could be dangerous for vehicles to be driving on. He explained that if we did that, we would need to continue grading the street further down because you can't let the water pond.

According to Mr. Fernandez, there is a hump right there by his driveway due to years of patching pot holes by Public Works, and insisted that this is what causes water to make a right angle turn into his driveway. He clearly stated that he does not want our city crew on his property trying to take care of any drainage issue.

City Engineer Raul Garcia informed Council that he is willing to re-visit the site to check out the hump that Mr. Fernandez is talking about.

Motion by Alderman Lance, seconded by Alderman Valdez to postpone any action on drainage issues on Wedgewood Way until City Engineer Raul Garcia re-addresses the situation.

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Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

King Avenue/Tilley Drive:

City Engineer Raul Garcia informed Council that there is a mobile home at the northwest corner of King Avenue and Tilley Drive (501 King) where the water ponds in that area. He told Council that the solution would be to construct a three foot sidewalk from Tilley Avenue to FM 3176 and also on the south side. He explained this should be able to drain the area and keep the water from going south. According to Mr. Garcia, a local contractor can do the job for a rough estimate of \$9,321.00.

Council heard from Mrs. Stella Aguero who lives at 604 King Avenue and she informed Council that water goes into her home, and also at 602 and 606 King Avenue further down. She said it gets very flooded when it rains. City Engineer Raul Garcia informed her that constructing this sidewalk on both sides of the street would help the situation. He explained the sidewalk would be creating a small ditch to allow the water to run.

Ms. Krysta Aguero also addressed Council and explained to City Engineer Raul Garcia that the sidewalk he is proposing would need to go further up past Tilley Drive, past Flores Drive and even up to Gutierrez Drive in order for it to work and prevent flooding in their area.

Discussion was held on this drainage issue starting at Walmart with the water coming down a large area, but said that doing this will help drain their area eventually. Mayor Herring added that this is just a start; it doesn't mean that this is all we are going to do.

Nakita Gonzales, of 501 King Avenue, also addressed Council and spoke of their flooding situation. She is willing to provide pictures and videos to Council. City Engineer Raul Garcia stated that it would take a much bigger project in order to handle this situation but this would be just a start to help alleviate the situation.

Alderman Lopez also commented that this area, which is in his district, has been flooding for years.

Interim City Administrator Dora V. Rodriguez asked City Engineer Raul Garcia when he would be able to start this if Council were to approve it tonight. He stated that it can be started as early as this week but the City would need to get prices locally to do that kind of work. He told Council that he would be able to set the points to do the sidewalks at the proper elevation, but we need to use local contractors; however, he would be part of the project. Per Mayor Herring, our Public Works Department would also be supervising, and we would need to amend the budget.

Motion by Alderman Lopez, seconded by Alderman Valdez to spend \$9,321.81 for improvements on King Avenue/Tilley Drive, and amend the budget for like amount.

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Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The ninth order of business was to discuss and consider street paving for Rossville Avenue.

Mayor Herring explained that we have two ways of paving streets: 1) Street overlaying – which is what we have been doing, at no cost to the homeowner, or 2) Street paving – in which the homeowners can get a petition going and if 50% of the homeowners want this done with a curb, gutter and new base, they pay a fraction of the total cost. The cost would be 1/3 for homeowners on one side of street; 1/3 for the City; and 1/3 for homeowners on the other side of the street. According to City Engineer Raul Garcia, to pave Rossville Avenue, it would cost approximately \$400,000; however, we will not know the actual cost until we go out for bids. We are looking at approximately \$120/front property linear foot or \$40 per front property linear foot for each property owner.

City Attorney Tom Cate explained that if it's a homestead, we have to have a lien on the property before we get started. Discussion was held on street pavings done in the past that the City is still trying to collect on. According to Interim City Administrator/City Secretary Dora V. Rodriguez, in these cases, we usually collect when the house is being sold.

Mr. Charles West addressed City Council and asked if this means the entire street is going to be paved because some property owners want it done and some do not. Mayor Herring informed him that the entire street would be paved if we go this route. He did not think this is right and didn't agree with our policy. City Attorney Tom Cate advised that this is our paving policy, and Interim City Administrator/City Secretary Dora V. Rodriguez added that most cities do it this way. Mr. West told Council that the overlaying of Rossville Avenue that has been done already by our Public Works Department turned out pretty good other than some edges chipping off.

Mr. West held discussion with Council on re-doing the streets off of Rossville Avenue (Rosewood, Blackjack) going into the Housing units. City Attorney Tom Cate commented that he wasn't sure if those streets have been dedicated to the City. According to Interim City Administrator/City Secretary Dora V. Rodriguez, she will have Public Works Director Ismael Carrillo look into these streets and also to make sure that the guys went as far as they needed to go.

Motion by Alderman Valdez, seconded by Alderman Lopez to postpone any action on Rossville Avenue.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

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Motion carried.

The tenth order of business was to discuss and consider parking issue on S. Bright Drive and College Avenue.

Mayor Herring informed Council that there had not been much need for parking here until more businesses started coming in; now we have three new businesses, and there's a need for parking. Mayor Herring stated that the curb behind Security Bank was painted red which means no one can park there and that is causing a problem.

Council held lengthy discussion regarding the Railroad owning all of Commercial Drive and most of the area around there.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that the City of Lytle leases parking from their Railroad Company. According to City Attorney Tom Cate, they do this for a small amount; the railroad just basically asks for a nominal amount and for the City to maintain it. He informed Council that the guy from the railroad will be talking to the people in Omaha and then will get back with us on the proper documents. Interim City Administrator/City Secretary Dora V. Rodriguez also met with Lori Peery to discuss parallel parking and that's when she found out about the railroad owning more than what we thought.

Council held lengthy discussion on the reason the curb was painted red behind Security Bank. Alderman Lopez suggested repealing the ordinance. Interim City Administrator/City Secretary Dora V. Rodriguez also suggested waiting until the Railroad brings us more information regarding parking on Commercial Drive.

Motion by Alderman Lopez, seconded by Alderman Lance to postpone consideration of parking issue on S. Bright Drive and College Avenue.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The eleventh order of business was to discuss and consider allowing Union Pacific contractor to access right-of-way through the Waste Water Treatment Plant for boring project.

City Engineer Raul Garcia addressed Council as they reviewed a Google Earth map. Mr. Garcia explained that he and Director of Public Works Ismael Carrillo met with the guys from Union Pacific Railroad regarding bore hole testings that they do. He said they are looking at a bridge trestle (shown on the map) and in order to do their boring project, they need to go through our property at the Waste Water Treatment Plant. He said they had discussed some shallow sewer lines in the area but they can be protected from any damage. According to Director of Public Works Ismael Carrillo,

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all they needed was our permission to allow them to go through our property to access right-of-way through our Waste Water Treatment Plant.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that they are still waiting on the green light from the Union Pacific Railroad to do this. She said that normally it only takes one business day but worst case scenario could be one week should something break down.

Motion by Alderman Lopez, seconded by Alderman Lance to allow Union Pacific contractor to access right-of-way through the Waste Water Treatment Plant for boring project.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The twelfth order of business was to discuss and consider GED Classes at the Library/Community Center.

Council heard from Library Director Barbara Moore. She introduced Mr. Larry Stacy as the GED instructor, and asked permission from Council for the Library to sponsor GED classes at the Community Center. Classes will be on Monday, Tuesday and Wednesday evenings.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to allow for GED Classes to be held at the Library/Community Center.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The thirteenth order of business was to discuss and consider West Texas Gas, Inc. Pipeline Emergency Procedures.

Director of Public Works Ismael Carrillo informed Council that he is fine with everything in the procedures. Chief Benavides also told Council that she completed a survey on this, and has no concerns either.

Motion by Alderwoman Wilkins, seconded by Alderman Lopez to approve the West Texas Gas, Inc. Pipeline Emergency Procedures.

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Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The fourteenth order of business was to review tax rate for 2016-2017.

Interim City Administrator/City Secretary Dora V. Rodriguez addressed Council and said she understood at the last meeting that we are staying at the \$0.5110 tax rate, and she just wanted their consensus on this because she needs to start publishing in the newspaper. Mayor Herring stated that we are recommending for the tax rate to stay at \$0.5110/\$100; the effective tax rate would be \$0.4616/\$100 and the rollback tax rate would be \$0.5236/\$100.

Motion by Alderman Valdez, seconded by Alderwoman Wilkins to validate that we did discuss and review the tax rate for 2016-2017, and that we are anticipating at staying at the \$0.5110 tax rate.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

The fifteenth order of business was Informational Items.

- Police Department – Mayor Herring thanked Chief Benavides and her staff for all that they do. He then then informed Council that we are trying to get a grant to add one more police officer.
- Public Works Department – Mayor Herring also thanked Director of Public Work Ismael Carrillo and Superintendent of Public Works Rob Flores and their staff for all of their hard work. They are appreciated, and he commented that the streets look good.
- VFW – Alderman Lopez announced that things are slow but they are working on Voice of Democracy which is coming up.
- Crimestoppers – Sonia J. Lance announced that the Crimestoppers will be having a Golf Tournament on September 23, 2016.
- Cookies for a Cop – Mayor Herring read a letter sent to Chief Benavides which explained how the program “Cookies for a Cop” developed after someone decided to change how they felt about how the media portrays the negativity of law enforcement. In the letter, they are recognizing our Devine Police Department, and cookies will be delivered to them the week of October 10th thru 14th to show their appreciation.
- Update on employee – Director of Public Works Ismael Carrillo reported to Council that his employee Martin Garcia has been diagnosed with lung cancer. He gave them an update on his condition, and informed them that a fundraiser was held for him last Saturday by his

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family and several of the Public Works employees helped out, raising over \$1,000.00 for medical expenses.

There being no further business to come before the governing body, motion made by Alderman Lance, seconded by Alderman Lopez to adjourn the meeting.

Ayes	--	Four
Nays	--	None
Absent	--	One – Alderman Espinosa

Motion carried.

Mayor

City Secretary