

Minutes
Regular Council Meeting
November 15, 2016

On this 15th day of November 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
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; Ismael Carrillo, Director of Public Works; and Ofilia Pedroza, UB Clerk.

Others present: Marly Davis, Devine News; Karen Rego and Judy Langford, Langford Community Management Services, San Antonio, Texas; Charles DeLadurantez with AFI, San Antonio, Texas; Vickie E. Pumphrey, Airport Manager; Erich Ehlinger, David Ehlinger, James R. Spurgers, Sonia J. Lance, Chris Yanta and Butch Cook, of 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 signed up to speak under this item.

The second order of business was Recognition.

Mayor Herring recognized Mr. Phillip Fitch, Chamber President, for doing an outstanding job with the Fall Festival and thanked everyone who helped with the festival.

The third order of business was to discuss and consider Approval of Minutes: Regular Council Meeting Minutes, October 18, 2016; and Special Council Meeting Minutes October 28, 2016.

Council reviewed minutes.

Motion by Alderman Espinosa, seconded by Alderman Lance to Approve the Minutes for Regular Council Meeting Minutes, October 18, 2016; and Special Council Meeting Minutes October 28, 2016.

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Ayes	--	Five
Nays	--	None

Motion carried.

The fourth order of business was consideration, discussion and possible action to award the management/administrative services contract for the preparation of the 2017-18 TxCDBG Community Development Fund Application and subsequent contract administration if application is funded.

Mayor Herring reported that only one bid was received from Langford Community Management Services. According to Karen Rego and Judy Langford, the house should be ready by Christmas. Council held brief discussion on what a great program this is.

Motion by Alderman Valdez, seconded by Alderman Lopez to award the management/administrative services contract to Langford Community Management Services for the preparation of the 2017-18 TxCDBG Community Development Fund Application and subsequent contract administration if application is funded.

Ayes	--	Five
Nays	--	None

Motion carried.

The fifth order of business was consideration, discussion and possible action to award the engineering services contract for the preparation of the 2017-18 TxCDBG Community Development Fund Application and subsequent contract implementation if application is funded.

Mayor Herring reported that we received bids from three different companies; Garcia & Wright Consulting Engineers, Inc., Klein and Cope Engineering, Inc., and LNV Engineering Services. Council reviewed the scoresheets from each one from three different people, of which all three gave Garcia & Wright Consulting Engineers, Inc. the top score.

Motion by Alderman Espinosa, seconded by Alderwoman Wilkins to award the engineering services contract to Garcia & Wright Engineers, Inc. for the preparation of the 2017-18 TxCDBG Community Development Fund Application and subsequent contract implementation if application is funded.

Ayes	--	Five
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider request made by Butch Cook for a speed bump to be installed on Fullerton Drive.

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Mr. Butch Cook was not present for the meeting.

Council reviewed a traffic study for Fullerton Drive conducted by Devine Police Department, and then heard from Police Chief Kandy Benavides. The study showed a total of 17 vehicles for a nine hour period, with the heaviest traffic (five vehicles) being from 12:15 p.m. to 1:15 p.m., with no school children walking at that time.

Chief Benavides reported that she understands Mr. Cook's concern because his house has been struck two separate times, but believes that the last accident was mostly weather-related with the driver going too fast. She commented that a speed bump might help but there is an expense that we need to take into consideration. She added that there are other areas in town that could also use a speed bump. In her opinion, Chief Benavides stated that she feels that people just need to pay more attention when they are driving but sometimes they don't.

Council discussed that we had a speed bump there before but it was removed when we paved the street.

Alderman Lopez asked Chief Benavides if she thought this traffic study justifies for not having the speed bump there. Chief Benavides informed Council that she believes that the dates and the hours that the officers were present does not justify needing a speed bump because then we can get arguments from other citizens wanting speed bumps in their areas too. She stated that people just need to pay attention to their driving and added that just from the data that they were able to come up with, she does not feel that this alone justifies the need for a speed bump.

Alderwoman Wilkins inquired if the speed bump was there when the first accident occurred. Chief Benavides responded, "No," but also added that she wasn't sure because it happened so long ago and said she would have to research it. Alderwoman Wilkins said that she was just wondering if they were there because if they were, she said, "Then it's not going to help." Chief Benavides agreed. She then informed Council that from her understanding, she thinks that Mr. Cook is not wanting a speed bump placed where the other one was previously located, but thought he is asking for it to be installed on Ross Drive. She added that she's not sure how that would work with the flow of traffic there because it's not like where it was located last was of any help to him.

Motion by Alderman Lopez, seconded by Alderman Espinosa to deny the request made by Butch Cook for a speed bump to be installed on Fullerton Drive.

Ayes	--	Five
Nays	--	None

Motion carried.

The seventh order of business was to discuss and consider the renewal of Appointment of Mrs. Polly Edlund to the Medina County 911 Emergency Communications District, Board of Managers.

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Mayor Herring commented that we've done this before and we are very satisfied with her job performance, and she has a great recommendation from Mr. Robert Rothe, Executive Director of the Medina County 911 Emergency Communications District.

Motion by Alderman Espinosa, seconded by Alderman Lance to renew the appointment of Mrs. Polly Edlund to the Medina County 911 Emergency Communications District, Board of Managers.

Ayes	--	Five
Nays	--	None

Motion carried.

The eighth order of business was to discuss and consider request for Aviation Fuels, Inc. to sell fuel at the Devine Airport.

Mr. David Ehlinger of Aviation Fuels, Inc. addressed Council and said that he and his son, Erich Ehlinger, are requesting fuel at the Airport and they do understand that that there is a process and procedures that they need to follow. He informed Council that they do have a silent investor present at the meeting tonight, Mr. Chuck DeLadurantez, from San Antonio, Texas. He stated that they are really excited about this opportunity to see some things moving.

Mr. Erich Ehlinger addressed Council next. He informed Council he had approached Interim City Administrator/City Secretary Dora V. Rodriguez a couple of weeks ago, and she had directed him to go before the Airport Advisory Board. He did that already and got their approval, so now he is requesting for Council to accept their recommendation.

Mayor Herring stated that there is so much that they still need to do. He said we cannot give final approval tonight because there is so much out there including the rate of how many cents per gallon of fuel. But, he said, someone can make a motion authorizing the Interim City Administrator/City Secretary, Dora V. Rodriguez, to enter into negotiations with Aviation Fuels, Inc. to sell fuel at the airport and then return to the Council with a proposed contract with Aviation Fuels, Inc., just to get the ball rolling. He said this way, hopefully, they can meet the January deadline. This will be another sales tax revenue for the City so that's another benefit.

Motion by Alderman Espinosa, seconded by Alderman Lopez to authorize the Interim City Administrator/City Secretary, Dora V. Rodriguez, to enter into negotiations with Aviation Fuels, Inc. to sell fuel at the airport and then return to the Council with a proposed contract with Aviation Fuels, Inc.

Ayes	--	Five
Nays	--	None

Motion carried.

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The ninth order of business was to discuss and consider Claim Form for AT&T Repair Billing Litigation.

City Attorney Tom Cate explained to Council that we've been informed by a court in Florida that there were a couple of contractors who filed a class action suit against AT&T. They alleged that AT&T was adding on to their Damage Claim (someone damaged their cables); they were adding on to that claim an undisclosed charge to cover the cost of its Risk Management Department and the charge for loss of use. He explained that, by law, they are not allowed to do that. He told Council that this lawsuit seeks to recover the amount of the two charges that were paid by class members and to stop AT&T from continuing to assess these two charges. According to City Attorney Tom Cate, they've calculated that the City of Devine is owed \$238.75. He explained that AT&T is setting aside something like \$15 Million to pay all the people who have been charged this extra charge.

City Attorney Tom Cate recommended for Council to approve this. He said he wasn't sure how many AT&T lines we've damaged but it would be hard for us to calculate that on our own. He advised that we don't go along with this, then we would have to hire our own lawyers to join in this lawsuit.

Motion by Alderwoman Wilkins, seconded by Alderman Lance to approve and fill out the Claim Form for AT&T Repair Billing Litigation.

Ayes	--	Five
Nays	--	None

Motion carried.

The tenth order of business was to discuss and consider cancelling December Regular Council Meeting and have a Special Meeting, if needed.

Council held brief discussion.

Motion by Alderman Lopez, seconded by Alderman Valdez to cancel December's Regular Council Meeting but have the option to have a Special Meeting, if necessary.

Ayes	--	Five
Nays	--	None

Motion carried.

The eleventh order of business was Informational Items.

- Mayor Herring announced that Public Works employee, Martin Garcia, is back in the hospital.
- Mayor Herring announced that Greg Coyne, who is on our Airport Advisory Board, was in a plane crash this weekend in Pleasanton.

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- Mayor Herring announced that Mr. Glen Dale Estep, who is on our Airport Advisory Board, is out of the hospital and in a nursing home doing better.
- Mayor Herring announced that he's glad that Alderman David Espinosa is doing better.
- Mayor Herring announced that Officer May was injured. Interim City Administrator/City Secretary Dora V. Rodriguez stated that he was injured at his home; it was not on the job. She said he messed up his right hand and, according to Chief Benavides, he is going back to the doctor this week and they are hoping he will be placed on light duty.
- Mayor Herring announced that Animal Control Officer Tyler Lawrence was bitten for the third time and, according to Chief Benavides, is doing okay.
- Mayor Herring announced the Go Medina County meeting will be this Thursday at the Community Center from 9:00 a.m. to 11:00 a.m. He told Council that it was very important to be there.
- Interim City Administrator/City Secretary Dora V. Rodriguez informed Council about the status of the new building. She will be contacting Mark McLIney to see if he can recommend some architects, and she will also be getting in contact with City Engineer Raul Garcia to get the ball rolling on this.
- Alderman Steve Lopez announced that the VFW is having the Voice of Democracy and Patriots Pen tomorrow.
- Mayor Herring announced that we will be having a Christmas Party for Council members and all Board members associated with the City. It will be on Thursday, December 1st at 6:00 p.m. at the Community Center.

The twelfth order of business was a request from Butch Cook, who arrived late to the meeting, to revisit Item #8.

Motion by Alderman Lopez, seconded by Alderman Lance to revisit Item #8.

Ayes	--	Five
Nays	--	None

Motion carried.

The thirteenth order of business was to revisit Item #8 – to discuss and consider request made by Butch Cook for a speed bump to be installed on Fullerton Drive.

Council heard from Mr. Butch Cook, who apologized for being late. He informed Council that he recently had a truck run into his living room which caused extensive damage to his house. He explained to Council that there had been a speed bump already there for several years but it was removed for the resurfacing of Fullerton Drive, and was never replaced. His question for Council was, "Is it going to be put back, or can it be moved further down the street?" He said he and his neighbors believe it will be more effective further down the street.

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Mr. Cook told Council that he lives on the corner of Ross Drive and Fullerton Drive just offset from FM 3176 which is coming downhill and has a big curve. He explained that what happens is that people accelerate and as they're coming down the curve, they just go ahead and come on down his street, Fullerton Drive, and keep on going; it's all downhill. He told Council, "I would chance to bet you it's the most dangerous intersection in our City." He said there's been numerous mishaps there over the years. He told Council that he thinks the biggest point is not necessarily the speed bump per se, but that we really need to address that area.

Mr. Cook held lengthy discussion with Council over the times indicated on the survey when there is hardly any traffic anyway at those times. He commented that the survey shows almost no traffic which is kind of crazy. He said he's lived there for 30 plus years and the traffic is heavy at certain times. He said he could film it himself and we would be surprised as to how fast people drive down that road.

Alderwoman Wilkins inquired if the City pays for speed bumps or if it is handled the same way as street paving with curbs. Council held discussion. Mayor Herring added that we've done it both ways; the City has paid for it, and on Jack Nicklaus, some of the residents contributed towards the cost of the speed bump.

Mayor Herring asked Council if they wanted to make a motion to rescind the decision they made with Item #8 to deny the request made by Butch Cook for a speed bump to be installed on Fullerton Drive

Motion by Alderman Lopez, seconded by Alderman Espinosa to rescind the motion made to deny the request made by Butch Cook for a speed bump to be installed on Fullerton Drive.

Ayes	--	Five
Nays	--	None

Motion carried.

Mayor Herring said the decision was rescinded so we were back to no decision on this. He asked Council if they wanted to consider discussion more, or if they wanted to postpone tonight pending further surveys on FM 3176.

Alderman Lopez told Council he would like to have another survey based on the times that Mr. Butch Cook mentioned to see what we can come up with.

Mayor Herring asked Butch Cook to specify the times so that our Police Department would know. Mr. Cook said he was unprepared and commented that he didn't know this was going to be for the speed bump; he thought it was going to be to try to do something for the intersection. Mayor Herring said we could do something to table or postpone until further traffic studies in the entire area have been done. Mr. Cook added that he would be more than glad to keep an eye on it for the next few days and the weekend to see when most people drive. Mayor Herring said he personally wants to know how many school children are coming up in the morning on that street and how many are getting off in the afternoon because that's his bus route.

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Mr. Cook told Council that there may not be as many as there used to be because their kids have grown. Mayor Herring said that will be a big determination factor in his recommendation on that.

Police Chief Benavides suggested that someone contact TxDOT. Interim City Administrator/City Secretary Dora V. Rodriguez said that she and City Attorney Tom Cate were talking about that. She said TxDOT uses that cable on the road to get a count, and she will contact them about helping us out.

Motion by Alderman Lopez, seconded by Alderman Espinosa to postpone any decision on the request made by Butch Cook for a speed bump to be installed on Fullerton until further studies have been completed.

Traffic Study on Fullerton attached as Exhibit A.


Ayes	--	Five
Nays	--	None

Motion carried.


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	--	Five
Nays	--	None

Motion carried.



City Secretary



Mayor

EXHIBIT A



Kandy L. Benavides
Chief of Police

Christopher Andrews
Lieutenant

Jenise M. Whitaker
Administrator Assistant

**CITY OF DEVINE
POLICE
DEPARTMENT**

303 S. Teel Drive
DEVINE, TX. 78016

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(830) 663-4318

October 25, 2016

To: Dora Rodriguez, Interim City Administrator
From: Chief Benavides

Re: Traffic Study for Fullerton Drive

We tasked our Officers to park on Ross Avenue for one hour increments and record the number of vehicles that enter onto Fullerton Drive. The Officers spent a total of 9 hours on the survey. There were morning, afternoon and evenings.

They recorded the following:

10-7-16, 6:00 pm to 7:00 pm: 4 Vehicles
10-8-16, 12:00 pm to 1 pm: 3 Vehicles
10-12-16, 5:00 pm to 6:00 pm: 3 Vehicles
10-18-16, 6:00 am to 7:00 am: 1 Vehicle
10-19-16, 6:00 am to 7:00 am: No Vehicles
10-23-16, 5:00 am to 7:00 am: No Vehicles
10-22-16, 6:00 am to 7:00 am: 1 Vehicle
10-24-16, 12:15 pm to 1:15 pm: 5 Vehicles

There was a total of 17 Vehicles for the 9 hour period.

Sincerely,

A handwritten signature in black ink, appearing to read "Kandy L. Benavides".

Kandy L. Benavides
Chief of Police