

Minutes
Special Council Meeting
February 12, 2019

On this 12th day of February, 2019, at 6:00 p.m., the City Council of the City of Devine convened in a Special 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 Steve A. Lopez
Alderman David Espinosa
Alderman Cory Thompson

Absent being Alderman David Valdez and Alderwoman Jennifer Schott; thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; Ismael Carrillo, Director of Public Works; Lieutenant Chris Andrews, Devine Police Department; Vickie Pumphrey, Airport Manager; and Ofilia Pedroza, UB Clerk.

Others present: Marly Davis, Devine News; Deborah McMullan, TRWA; Blake Caesar, ACI; Ryan Whiteside, Hilda Juarez, Terry Gawlik and Robert Rodriguez with Republic Waste; Tom Scott, David Ehlinger, Michael Walker, Robert Scott, Robert Cline, Joey Munoz Jr., and Hap Squires of Devine, Texas.

Mayor Herring, presiding, called the meeting to order.

The first order of business was to discuss and consider and approve the assignment of Solid Waste Collection Contract.

Mr. Blake Caesar with ACI/Alamo 1 addressed City Council and announced that ACI is being sold to Republic Services. He also announced that he will be staying on with Republic Services as the Municipal Marketing Manager for Devine. He expressed his excitement with this great new company and told Council it will do great things for the City of Devine. Mayor Herring thanked Mr. Caesar on behalf of City Council for all the great things he has done not only for the City of Devine but also for our community, such as Mission Devine.

Council then heard from Mr. Ryan Whiteside, General Manager with Republic Services in San Antonio. He introduced Hilda Juarez and Terry Gawlik as Division Managers and Robert Rodriguez as Supervisor. Mr. Whiteside told Council that he is very excited about doing business in Devine. He told Council that March 1st will be their actual transition day; that's when we'll be noticing their blue trucks in town. He explained that the waste wheelers will be replaced as they wear out over time. Republic has made employment offers and he is hoping that the current ACI employees will come on board with them, so it should be the same drivers.

Council held discussion and inquired about such things as the new billing system, rates and recycling. Blake Caesar explained that we should be getting a bill at the end of the month, and Mr. Whiteside said that we will be getting a summary bill and he will have Hilda Juarez contact Interim City Administrator/City Secretary Dora V. Rodriguez regarding the billing. He said that rates will stay with whatever is in the current contract. More discussion was held on the recycling service which is not part of our contract. According to Blake Caesar, we are down to only 35-40 pickups one-time-a-month so that service may go away but said that we can discuss that later.

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City Attorney Tom Cate advised Council that tonight, they only want approval on the assignment; we are not trying to change the terms of the contract.

Mr. Whiteside told Council that he wants to provide the same service that we've been getting.

Motion by Alderman Espinosa, seconded by Alderman Lopez to approve the assignment of Solid Waste Collection Contract.

Contract attached as Exhibit A.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The second order of business was to discuss and consider for Council to have TRWA help us with the Source Water Protection Program.

Council heard from Deborah McMullan with the Texas Rural Water Association (TRWA). She told Council that she manages the USDA Source Water Protection Contract for the State of Texas. She explained that this is a free program to any water system that wants to participate. She explained that it is an effort for the water system to be able to protect their water sources from any future contaminations from things such as septic systems from homes, underground storage tanks from gas stations, abandoned water wells, and cemeteries, to name a few. Ms. McMullan told Council that she does all of the work during the development of the program; it is a free program paid for by the USDA. She would come out and go over the entire system and look for any of these potential sources that could contaminate our water quality. Ms. McMullan discussed in detail what she would do when she is done, and in developing Best Management Practices on educating our citizens on how they can also help. These Best Management Practices are usually at no cost to the City or to the citizens. This is based on a lot of public education, so she could even help us with newspaper articles; and she would be here throughout the duration of the development of the program, and she can even come afterwards, as often as we need her.

Alderman Thompson inquired as to how long it would take to develop a plan for a town of our size. Ms. McMullan said it usually takes her three to four months from start to finish, depending on where all the wells are located. It could take her anywhere from five to ten days to really do all her research.

Mayor Herring stated that Texas Water Development Board (TWDB) is recommending that we do this. Interim City Administrator/City Secretary Dora V. Rodriguez added that after the assessment, TWDB let us know the things that we need to work on and this is one of them, and TRWA can help us at no cost.

Ms. McMullan informed Council that TCEQ does not require this of water systems; however, they do look very favorably on water systems that do participate. She added that if we want to do things that are very innovative, we could even possibly get some environmental excellence awards from TCEQ, so it's a very good program.

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Alderman Thompson inquired if this program is just for inside city limits. Ms. McMullen stated that the program focuses around all of the well heads regardless if they are inside or outside city limits. Council held discussion on our wells. According to Director of Public Works Ismael Carrillo, only the two Edwards wells are outside the city limits.

Motion by Alderman Thompson, seconded by Alderman Espinosa to approve to have TRWA help us with the Source Water Protection Program.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The third order of business was to discuss and consider ordering a City General Election to be held on May 4, 2019 for Mayor, and an Alderman for District #2 and District #5. (*Discutir y considerar ordenar una Elección General de Ciudad que se llevará acabo el día 4 de Mayo del 2019 con el propósito de elegir un Alcalde, y un Concejal para Distrito #2 y Distrito #5.*)

Motion by Alderman Lopez, seconded by Alderman Espinosa to approve ordering a City General Election to be held on May 4, 2019 for Mayor, and an Alderman for District #2 and District #5. (*Mociónado por Concejal Lopez, segundado por Concejal Espinosa para ordenar una Elección General de Ciudad que se llevará acabo el día 4 de Mayo del 2019 con el propósito de elegir un Alcalde, y un Concejal para Distrito #2 y Distrito #5.*)

Ayes (<i>Si, voto afirmativo</i>)	--	Three (<i>Tres</i>)
Nays (<i>Voto no afirmativo</i>)	--	None (<i>Ninguno</i>)
Absent (<i>Ausente</i>)	--	Two (<i>Dos</i>) – Alderman Valdez (<i>Concejal Valdez</i>) Alderwoman Schott (<i>la Concejal Schott</i>)

Motion carried. (*Moción aprobada.*)

The fourth order of business was to discuss and consider accepting the Notice of Election. (*Discutir y considerar aceptar la Noticia de Elección.*)

Motion by Alderman Lopez, seconded by Alderman Thompson to accept the Notice of Election. (*Mociónado por Concejal Lopez, segundado por Concejal Thompson para aceptar la Noticia de Elección.*)

Notice of Election attached as Exhibit B. (*La Noticia de Elección adherida como Exhibición B.*)

Ayes (<i>Si, voto afirmativo</i>)	--	Three (<i>Tres</i>)
Nays (<i>Voto no afirmativo</i>)	--	None (<i>Ninguno</i>)
Absent (<i>Ausente</i>)	--	Two (<i>Dos</i>) – Alderman Valdez (<i>Concejal Valdez</i>) Alderwoman Schott (<i>la Concejal Schott</i>)

Motion carried. (*Moción aprobada.*)

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The fifth order of business was to discuss and consider Approving and Adopting T-Hangar Lease, with rates.

Mayor Herring stated that this is the City's T-Hangar Bay Lease Agreement. Interim City Administrator/City Secretary pointed out to Council that Page 3, Section b. (third line) reads: "thirty (3) days", and it should read "thirty (30) days". Also, Page 4, Section "o.", she said that she and Public Works Director Ismael Carrillo had a question on this. It reads: "Lessee shall maintain a fire extinguisher as provided by the Lessor in the leased Hangar. The fire extinguisher will be properly maintained by Lessee in fully charged condition (type ABC required)". She told Council that this means that the City provides each one with a fire extinguisher but we can change it; we can have them provide their own fire extinguisher. City Attorney Tom Cate stated that she was correct in this. He told Council that tonight we're just going over everything. He said that if Council wants, this part can be omitted and we can just approve the T-Hangar Lease as amended.

Alderman Thompson commented that they do need fire extinguishers so if they do get their own, we need to request a specific size and we need to know what they are buying.

Interim City Administrator/City Secretary Dora V. Rodriguez also pointed out that there are two Waivers. One of them is for them to provide us with proof of insurance and the other one was changed. City Attorney Tom Cate explained that the Release, Waiver and Indemnification form is saying that they have to have insurance. He added that we were informed by Airport Manager Vickie Pumphrey that there are some aircraft owners who do not carry any insurance. So if that is the case, they are going to have to sign this Release, Waiver and Indemnification form. City Attorney Tom Cate explained that if they do not have insurance or they let their insurance lapse in coverage, it is not going to preclude them from being responsible for any damages to the T-Hangars. He stated, "In the event that something happens and it is your fault, insurance should cover you." Airport Manager Vickie Pumphrey informed Council that it is very normal for aircraft owners not to carry insurance. She explained that usually the ones who do carry insurance are the ones who are flight training or who are financing, but it is normal for them not to carry insurance at all. City Council seemed surprised to hear this, as were some of the airport advisory board members.

Alderman Espinosa inquired if it is a state requirement to have the fire extinguishers. City Attorney Tom Cate advised that it is only for our protection and for the tenants' protection. Council held discussion on the inspection of the fire extinguishers. City Attorney Tom Cate added that we can still inspect the premises to make sure that they are complying so they won't be in violation of the lease.

Council held discussion on making it mandatory to have insurance and needing to set limits. City Attorney Tom Cate told Council that this is only for review; we don't have to approve it tonight. We can bring this back at another meeting and he can check with an agent who sells aviation insurance, and then he'll get back with the Interim City Administrator/City Secretary on this. Interim City Administrator/City Secretary Dora V. Rodriguez told Council that this is something brand new; we saw some things and just wanted to bring it to Council's attention.

City Attorney Tom Cate advised that Alderman Thompson has a good idea in that the City should provide the fire extinguishers; this way we know that they have the fire extinguishers that we want, and the City would have to maintain them and make sure that they are operational.

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Airport Advisory Board Chairman Hap Squire addressed City Council and said that what we are really looking for, in his opinion, is renters insurance and that we should be addressing that. He said that the insurance that Vickie is talking about is aviation and liability insurance and insurance on the airplanes. He said renters insurance would be very inexpensive because the damage that can happen to a T-Hangar is very minimal. City Attorney Tom Cate added that his understanding of renters insurance is that it's going to cover the renter's belongings inside; it is not going to cover the landlord's. Mr. Squires was in agreement with this. He added that the City is more concerned about what happens to the hangar.

City Attorney Tom Cate advised that Council will not be able to vote on this tonight because there are too many questions. Alderman Thompson held more discussion on the T-Hangar Lease Agreement over the CPI increase and under Section V. b. – In the event Lessee fails to remove the material and take corrective measures, the Lessor shall remove the material to take corrective measures. He inquired where we would move the materials to. He doesn't want the City to incur any more costs. City Attorney Tom Cate advised the City has to have some control over this. He stated that depending on what it is, for example, an aircraft; we may have to move it to the apron and tie it down.

Mr. Tom Scott, who rents one of our hangars, addressed Council and gave a brief history of his association with our airport and other airports. He stated that in his opinion we might want to check with a lawyer. He stated that if we move things, we're leaving ourselves open to a big lawsuit and we would be taking on a big responsibility. He said the alternative would be to leave things in the hangar and for the City to continue charging rent and go through the process of eviction. He said this way the City can also file a claim to sell the plane and recoup our losses, and we would be relieving the City of any responsibility. City Attorney Tom Cate stated that this would just increase the time to take things out of the hangar but added that he didn't have a problem with this. He mentioned a situation at the Castroville Airport where a plane was left in the hangar and eventually had a lien placed on it and then it got sold at an auction. According to City Attorney Tom Cate, this is another correction we can make to the lease agreement.

Interim City Administrator/City Secretary Dora V. Rodriguez held discussion with Council on the hangar rates. She told Council that some renters are paying \$125 a month and some are paying \$175 month, and said that we need to be the same across the board. She added that the office and the T-Hangar that the Estep's had, should be more because they would be getting an office along with the T-Hangar. According to Airport Manager Vickie Pumphrey, all the hangars are the same size except for one. Interim City Administrator/City Secretary Dora V. Rodriguez added that these are the current rates since we got the hangar from the Estep's.

Council held more discussion with Alderman Thompson regarding Page 8, Section VIII a. regarding "operational" aircraft. It was discussed that if a plane needs to be "worked on," it will not be in violation of this section of the lease agreement.

Motion by Alderman Espinosa, seconded by Alderman Lopez to table Approving and Adopting T-Hangar Lease, with rates.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Aldermoman Schott

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Motion carried.

The sixth order of business was to discuss and consider entering into an Office and T-Hangar Lease with Joe Munoz.

Interim City Administrator/City Secretary Dora V. Rodriguez told Council that we haven't yet approved the hangar rates. City Attorney Tom Cate advised Council that we can still talk about this. He added that we need to add the changes to the lease agreement and said that we also need to talk about the T-Hangar lease itself and the one that we're going to use for all the other T-Hangars. He said that the lease doesn't have any provision in it about the office, so this will also need to be added to the lease for Mr. Munoz. Interim City Administrator/City Secretary Dora V. Rodriguez added that this is the hangar which the Estep's have been allowed to use for their plane; it is connected to an office.

Airport Manager Vickie Pumphrey informed Council that she and Mr. Munoz went and spoke to the Estep's and they agreed to switch hangars to the open T that we do have. Ms. Pumphrey explained that she will be doing work on the Estep's airplane. In order to work on it, she needs to move it out now and move it over to her shop, and as soon as she is done, the Estep's will go back to the smaller hangar and we would be able to open that hangar for Mr. Munoz. She told Council that the Estep's are very agreeable to this. Mayor Herring commented that this way we can lease the current first hangar with the office to Mr. Munoz.

Motion by Alderman Thompson, seconded by Alderman Lopez to table entering into an Office and T-Hangar Lease with Joe Munoz.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The seventh order of business was to discuss and consider Approving Sublease for Hangar #2.

Airport Manager Vickie Pumphrey informed Council that she will be subleasing Hangar #2 to Joe Munoz. Council reviewed a blank lease. According to Interim City Administrator/City Secretary Dora V. Rodriguez, the blanks in the lease have been filled in but she has it in her office and City Attorney Tom Cate has not had a chance to look it over. She asked if we could bring this back before Council on February 19th since we're bringing back all the other items that have been tabled. City Attorney Tom Cate confirmed that we can bring this back before Council on February 19th.

Motion by Alderman Espinosa, seconded by Alderman Thompson to table Approving Sublease for Hangar #2.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

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Motion carried.

The eighth order of business was to discuss and consider the use of fire hydrants by Devine Volunteer Fire Department, Emergency Service District #2.

Mayor Herring informed Council that we have agreed for Fire Chief Mike Walker and his colleagues to sit down with Director of Public Works Ismael Carrillo and Superintendent of Public Works Rob Flores to decide on a certain fire hydrant to be used. They will install a meter which will save a lot of time and effort on the part of both parties to know how much water they are using. Mayor Herring stated that this designated fire hydrant will be used for training exercises or to fill up after a fire. He added that, of course, if there is a fire, they can use the nearest fire hydrant.

Interim City Administrator/City Secretary Dora V. Rodriguez told Council that City Attorney Tom Cate is recommending that we would need to amend our “tampering” ordinance to make sure that we cover ourselves. City Attorney Tom Cate added that we need to make sure that everyone understands which fire hydrant is going to be used for training purposes. He said that the whole purpose for this is so that we can meter the water. He added that if they don’t use the designated fire hydrant, then we want to hold them responsible for the water usage. Interim City Administrator/City Secretary Dora V. Rodriguez shared that they’ve been talking to Chief Walker, and added that we’re also trying to make it easier on them by designating a certain location for them to fill up. She explained that by doing this, they won’t have to worry about the usage because they would already have a reading; they just need to decide on a location.

Chief Mike Walker addressed City Council. He inquired where the meter is going to be located and asked who would have access to that meter. He wanted to know if the City will hold them accountable for every gallon of water that rolls over in the meter in the event that someone else uses the meter. He wants to be accountable for what they use. Director of Public Works Ismael Carrillo assured Chief Walker that the meter which we furnish will have a locking device so that only the fire department will be able to unlock it and use the water that they need and be able to lock it back up. He added that, of course, if they leave it unlocked, then it would be up to them whoever gets water. Chief Walker was okay with this. He told Council he just wants to make sure they pick a good location so as not to ruin any roads due to the large trucks. Interim City Administrator/City Secretary stated that this is why he and whoever else he wants will be meeting with Director of Public Works Ismael Carrillo and Superintendent of Public Works Rob Flores to find the best location.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that she received two quotes from Director of Public Works Ismael Carrillo for the size of the meter. She asked for Council to decide as to who would be paying for the meter – the City or the ESD. She told Council that one quote was for \$983 and the other was for \$772. According to Director of Public Works, both are for the same size of meter; the quotes are just from different companies. Council held discussion on the size of the meter. Director of Public Works Ismael Carrillo explained that the meter is off of a 3” outlet but reduces to a 2” meter; so it’s a 2” meter. According to Chief Walker, they use either a 3” or 6” outlet, but a 3” will suffice for their plan on the use of that hydrant, and it’s not for emergency use.

Alderman Thompson stated that it doesn’t matter to him who pays for the meter. He said that if the Emergency Service District has the money to pay for it, fine; but if not, it does end up benefiting the City of Devine. Chief Walker informed Council that the Fire Department is having a meeting next Tuesday at 6:30 p.m. Mayor Herring stated that all we’re doing is authorizing for Director of Public Works Ismael

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Carrillo and Superintendent of Public Works Rob Flores to meet with representatives of the Devine Volunteer Fire Department, ESD #2 to discuss and decide on the location of this meter.

Motion by Alderman Lopez, seconded by Alderman Thompson to allow Director of Public Works Ismael Carrillo and Superintendent of Public Works Rob Flores to meet with representatives of the Devine Volunteer Fire Department, ESD #2, to discuss and decide on the location of the designated meter and fire hydrant.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The ninth order of business was to discuss and consider accepting the 2018 Racial Profiling Report.

Lieutenant Chris Andrews addressed City Council and went over the report and said this report gets filed annually to the State on the number of traffic stops made. He told Council that 2017 was their largest year in traffic stops; having approximately 800 less in 2018, but there were more injuries to account for in 2018. Council reviewed report and thanked the Devine Police Department.

Motion by Alderman Espinosa, seconded by Alderman Thompson to accept the 2018 Racial Profiling Report.

Report attached as Exhibit C.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The tenth order of business was the Executive Session: Pursuant to Section 551.072 Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

At 6:49 p.m., Mayor Herring announced to the public that the Council would go into a Closed Session.

At 7:01 p.m., Closed Session was open to the public.

No action was taken in Closed Session.

The eleventh order of business was to Reconvene into Regular Session and consider action, if any, on items discussed in Executive Session.

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Motion by Alderman Lopez, seconded by Alderman Espinosa to allow City Attorney Tom Cate and City staff to begin the process involved with the property discussed in closed session, with the cost not to exceed \$2,500.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The twelfth order of business was the Executive Session: Consultation with Attorney about contemplated litigation. Section 551.071 Texas Government Code.

At 7:02 p.m., Mayor Herring announced to the public that the Council would go into a Closed Session.

At 7:16 p.m., Closed Session was open to the public.

No action was taken in Closed Session.

The thirteenth order of business was to Reconvene into Regular Session and consider action, if any, on items discussed in Executive Session.

Motion by Alderman Lopez, seconded by Alderman Espinosa to authorize City Attorney Tom Cate and City staff to take all appropriate action concerning the item of litigation discussed in closed session.

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

The fourteenth order of business was Informational Items.

The following was discussed:

- Edwards Well #1 – Director of Public Works held discussion with Council over one of the motors running out. It will cost \$32,000 to replace it. He explained that the only way to get warranty on it is if a licensed electrician installs it. The alternative would be to rewind the motor, which we did back in 2016, but City Engineer Raul Garcia is recommending that we get a new motor. He discussed that the transmission lines out there start at 16 and reduce down to 12. According to Director of Public Works Ismael Carrillo, Mario's Electric can get a 250 HP motor out of Dallas. Interim City Administrator/City Secretary Dora V. Rodriguez told Council that we are trying to move towards getting a new motor, and told Council that we can bring this back before Council on February 19th; this was just so Director of Public Works Ismael Carrillo can move forward with this.

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- Fuel Farm – Airport Manager Vickie Pumphrey reported that the KSA surveyors have been out at the airport and already took dimensions. She reported that the restrooms were removed today and the septic tank should be removed shortly, and the port-a-potties should be delivered in the morning. She said things are moving right along. Interim City Administrator/City Secretary Dora V. Rodriguez reminded Council that we are working with two ramp grants so we are trying to get as much done with the current ramp grant and then finish out everything else with the second ramp grant.

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

Ayes	--	Three
Nays	--	None
Absent	--	Two – Alderman Valdez Alderwoman Schott

Motion carried.

Mayor

City Secretary