

Minutes
Regular Council Meeting
April 16, 2019

On this 16th day of April, 2019, 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 Steve A. Lopez
Alderman David Valdez
Alderman David Espinosa
Alderman Cory Thompson
Alderwoman Jennifer Schott

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Mary Rodriguez, City Financial Advisor; Tom Cate, City Attorney; and Ofilia Pedroza, UB Clerk.

Others present: Marly Davis – Devine News; Jeff Kuhn, with Norton Rose Fulbright; Lance Elliott, TIFF Consultant; Ruben Guzman, David Rothechild, Veronica Schaefer, and Eva Thompson and Debbie Randall of Devine, Texas.

Mayor Herring, presiding, called the meeting to order.

Mayor Herring delivered the Invocation and Alderman Lopez led the Pledge of Allegiance.

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

No one spoke under this item.

The second order of business was Recognition.

There was no Recognition at this time.

The third order of business was to discuss and consider Approval of Minutes: Regular Council Meeting, February 19, 2019; and Regular Council Meeting, March 19, 2019.

Council reviewed minutes.

Motion by Alderman Lopez, seconded by Alderman Espinosa to approve the minutes for Regular Council Meeting, February 19, 2019; and Regular Council Meeting, March 19, 2019.

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Ayes	--	All
Nays	--	None

Motion carried.

The fourth order of business was discuss, consider and approval of an ordinance authorizing the issuance of “City of Devine, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2019”; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the City and further securing said certificates by a lien on and pledge of the pledged revenues of the system; providing the terms and conditions of said certificates and resolving other matters incident and relating to the issuance, payment, security, sale, and delivery of said certificates; authorizing the execution of a Paying Agent/Registrar Agreement and a Purchase and Investment Letter; complying with the requirements of the Letter of Representations previously executed with the Depository Trust Company; authorizing the execution of any necessary engagement agreements with the City’s Financial Advisors and/or Bond Counsel; and providing an effective date.

Mr. Jeff Kuhn, with Norton Rose Fulbright, addressed City Council with good news in the financial department. He started with a shout-out to Interim City Administrator/City Secretary Dora V. Rodriguez. He said he had faith in Dora and her team; they did a fantastic job. Mr. Kuhn reported that 11 bids were received which is fantastic; he said that it’s a testament to the community. One of our local banks, Community National Bank was the winning bidder. They came in with a bid of 2.18%. He explained that the debt will go from 2020 to 2029. The next step, he said, is to adopt an ordinance for \$1,075,000.00 and use the proceeds to install water meters. He told Council that once the water meters are installed, it should be fantastic. Mr. Kuhn explained that in the likely event that we have excess money, the City can do any capital improvements. If the ordinance is adopted tonight, we will be closing on May 15, 2019. Council was happy to hear this. Mr. Kuhn, recommended for Council to adopt this ordinance; and City Attorney Tom Cate advised that we are set to go.

Motion by Alderman Espinosa, seconded by Alderman Lopez to Adopt Ordinance 4-19 authorizing the issuance of “City of Devine, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2019.”

Ordinance attached as Exhibit A.

Ayes	--	All
Nays	--	None

Motion carried.

The fifth order of business was to discuss and consider approval of changes to the Inter-Local Agreement between Medina County and the City of Devine Tax Increment Reinvestment Zone Number Two.

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Mr. Lance Elliott, TIFF Consultant, addressed Council. He told Council that one of the conditions we went back to the County is that we wanted the Commissioners to re-look over the agreement. He told Council that when Judge Barton was presiding, we already had an existing zone, and then Walmart got built. He explained that when Medina County approved participating in the City of Devine TIRZ #2, they set their base year at 2017 – the year in which they began participating in the Zone, and set their base value at \$9,697,254. The taxable value of Walmart has declined every year since its initial construction. The County has agreed to change their base Year to 2018 and their Base Value to \$8,552,660 to reflect the decline in the value of Walmart.

Council held discussion as Mr. Elliott went over the formula on sales per square feet.

Motion by Alderwoman Schott, seconded by Alderman Valdez to approve the change to the Inter-Local Agreement between Medina County and the City of Devine Tax Increment Reinvestment Zone Number Two.

Ayes	--	All
Nays	--	None

Motion carried.

The sixth order of business was to discuss and consider repaying the loan from Jerry Dykowski to Devine Golf Association.

Mayor Herring informed Council that Mr. Dykowski loaned the Devine Golf Association \$20,000 and for this, he would get benefits for 20 years.

Council held lengthy discussion on there being no paper trail of any documentation proving that the loan was forgivable. According to City Attorney Tom Cate, it was carried on their books as a loan and we need to pay back this amount.

Alderman Thompson inquired if we were sure that this is the last unknown debt, to which Interim City Administrator/City Secretary Dora V. Rodriguez, Mayor Herring and City Attorney Tom Cate all responded, "No, we don't know!" Interim City Administrator/City Secretary Dora V. Rodriguez mentioned that we found out that there are reports that weren't submitted by the Devine Golf Association, that we may need to pay. City Financial Advisor Mary Rodriguez then went over some quarterly reports that were not filed for March 2018 and September 2018. She also mentioned a Form 1120 not filed, which she is estimating at \$350

Council held discussion.

Motion by Alderman Espinosa, seconded by Alderman Valdez to pay back the loan from Jerry Dykowski to the Devine Golf Association in the amount of \$18,837.87, and to amend the budget by same amount.

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Ayes	--	All
Nays	--	None

Motion carried.

The seventh order of business was to discuss and consider authorizing the Police Chief to close off a portion of Mt. Vernon Street, beginning at the corner of Ingram Road and Mt. Vernon Street, and extending that closure down Mt. Vernon Street just to the alley, for Devine Savior Lutheran Church's Annual Gift of Hope Fundraiser.

Motion by Alderman Lopez, seconded by Alderman Thompson to approve authorizing the Police Chief to close off a portion of Mt. Vernon Street, beginning at the corner of Ingram Road and Mt. Vernon Street, and extending that closure down Mt. Vernon Street just to the alley, for Devine Savior Lutheran Church's Annual Gift of Hope Fundraiser.

Ayes	--	All
Nays	--	None

Motion carried.

The eighth order of business was to discuss and consider creating an ordinance regulating cell towers in our city limits.

City Attorney Tom Cate talked to Council about the County looking to locate a cell tower on city property. He said they're talking about big cell towers which would be regulated by Zoning. He told Council that we don't have to take any action right now on this one but advised that later we do need to pass an ordinance for the small cell towers on our right-of-ways.

Motion by Alderman Thompson, seconded by Alderman Valdez to postpone any action on creating an ordinance regulating cell towers in the city limits.

Ayes	--	All
Nays	--	None

Motion carried.

The ninth order of business was to discuss and consider Interlocal Contracts with the following:

- A. City of Natalia
- B. County of Medina
- C. City of Hondo
- D. City of Castroville
- E. City of Lytle

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Council held discussion with Interim City Administrator/City Secretary Dora V. Rodriguez. She told Council that these contracts are for our Police Department. She explained that with the City of Hondo, we've used the services of their K-9 and Animal Control; and with the Cities of Lytle, Natalia, Castroville and Medina County, we've used manpower for the Police Department. City Attorney Tom Cate told Council that we trade services. He said he reviewed all of these contracts and made corrections.

Motion by Alderwoman Schott, seconded by Alderman Espinosa to approve the Interlocal Contracts with the City of Natalia, County of Medina, City of Hondo, City of Castroville and the City of Lytle.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was:

- A. A Public Hearing to discuss the Final Report of the Planning & Zoning Commission to change the classification of property consisting of approximately 8.3898 acres of land located along the west & east side of Live Oak Drive from Class A. Single-Family Residence to Class B. Single-Family Residence which is proposed to include any or all properties described as follows:

Rossville (R15755), 101 Live Oak (R15756), 103 Live Oak (R15757), 105 Live Oak (R15758), 109 Live Oak (R15760), 111 Live Oak (R15761), 113 Live Oak (R15762), 119 Live Oak (R15763), 119 Live Oak (R15764), 121 Live Oak (R15765), 121A Live Oak (R15766), 123 Live Oak (R15767), 125 Live Oak (R15768), 127 Live Oak (R15769), 129 Live Oak (R15770), 133 Live Oak (R15771), 135 Live Oak (R15772), Live Oak (R15773), 204 Live Oak (R15774), 124 Live Oak (R15775), 122 Live Oak (R15776), 120 Live Oak (R15777), 118 Live Oak (R15778), 116 Live Oak (R15779), 114 Live Oak (R15780), 112 Live Oak (R15781), 110 Live Oak (R15782), 108 Live Oak (R15783), 106 Live Oak (R15784), 104 Live Oak (R15785) and 708 Rossville (R15786).

At 6:31 p.m., Mayor Herring announced that the Public Hearing was open.

Veronica Schaefer addressed Council and commented that she purchased property on Live Oak with the intention of bringing in a manufactured home; she said 80% of the homes there are manufactured homes, but she found out that the zoning was never changed. She told Council she was coming before them to get the zoning updated. Interim City Administrator/City Secretary Dora V. Rodriguez stated that back then, they went through all the steps to change the zoning but an ordinance was never done to make it legal. City Attorney Tom Cate added that it was done by way of a resolution and it can't be done this way, so this voids everything and that's why we're starting all over.

At 6:33 p.m., hearing no other comments from the public, Mayor Herring closed the Public Hearing.

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Motion by Alderman Lopez, seconded by Alderman Valdez to approve the Final Report of the Planning & Zoning Commission to change the classification of property consisting of approximately 8.3898 acres of land located along the west & east side of Live Oak Drive from Class A. Single-Family Residence to Class B. Single-Family Residence.

Ayes	--	All
Nays	--	None

Motion carried.

- B. To discuss and consider Adoption of Ordinance to change the zoning classification of property consisting of approximately 8.3898 acres of land located along the west and east side of Live Oak Drive from Class A. Single-Family Residence to Class B. Single-Family Residence which is proposed to include any or all properties described as follows:

Rossville (R15755), 101 Live Oak (R15756), 103 Live Oak (R15757), 105 Live Oak (R15758), 109 Live Oak (R15760), 111 Live Oak (R15761), 113 Live Oak (R15762), 119 Live Oak (R15763), 119 Live Oak (R15764), 121 Live Oak (R15765), 121A Live Oak (R15766), 123 Live Oak (R15767), 125 Live Oak (R15768), 127 Live Oak (R15769), 129 Live Oak (R15770), 133 Live Oak (R15771), 135 Live Oak (R15772), Live Oak (R15773), 204 Live Oak (R15774), 124 Live Oak (R15775), 122 Live Oak (R15776), 120 Live Oak (R15777), 118 Live Oak (R15778), 116 Live Oak (R15779), 114 Live Oak (R15780), 112 Live Oak (R15781), 110 Live Oak (R15782), 108 Live Oak (R15783), 106 Live Oak (R15784), 104 Live Oak (R15785) and 708 Rossville (R15786).

Motion by Alderman Espinosa, seconded by Alderman Thompson to Adopt Ordinance 4-19A to change the zoning classification of property consisting of approximately 8.3898 acres of land located along the west and east side of Live Oak Drive from Class A. Single-Family Residence to Class B. Single-Family Residence.

Ordinance attached as Exhibit B.

Ayes	--	All
Nays	--	None

Motion carried.

- C. To discuss and consider a request made by Ruben Guzman for an advisory opinion and variance concerning the possible resubdivision of Devine Block 58, Lot 5 and Parts of 7-8, Acres 0.521, located on Upson Drive, into 2 lots with widths of 60 feet and 55 feet, with 1 lot having a minimum total area of more than 9,000 square feet (minimum lot area by ordinance) and with 1 lot having total area of 8,947.8 square feet. In addition, the 2 lots on the resubdivided land would have front yards/building setback lines of 20 feet instead of the minimum 40 feet required by ordinance.

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City Attorney Tom Cate stated that if he's going to resubdivide, he'll need to hire an engineer. Interim City Administrator/City Secretary told Council that she met with our city engineer to make sure that the setbacks are acceptable. She said that City Engineer Raul Garcia is recommending we go with a 30 foot front setback and nothing less than that so that the City will have a sufficient right-of-way. She also told Council that Mr. Guzman had drawn up another map with a 30 foot front setback; he wants to build two houses.

Alderman Thompson commented that the neighboring backyard fences to the houses on lots 9 and 10 don't seem to line up in a straight line when you look at them through an overhead map, and he told Mr. Guzman that he might look into that issue.

Council held minor discussion and reviewed the new drawing that Mr. Guzman turned in, and they seemed to be okay with all the setbacks.

Motion by Alderwoman Schott, seconded by Alderman Valdez to give an advisory opinion that the City is okay with approving a variance on the lot sizes and a minimum front yard setback of 30 feet instead of the minimum 40 feet required by ordinance.

Ayes	--	All
Nays	--	None

Motion carried.

Discussion was held after the motion; Mayor Herring commented that this still has to go before the Planning & Zoning Commission.

The eleventh order of business was to discuss and consider Approving Minutes along with the recommendation for the Parks & Recreation Advisory Board Meeting held on April 2, 2019.

A. Approval of Master Park Plan Priority Facility List

Council reviewed the minutes. City Attorney Tom Cate commended Debbie Randall, Chairman of the Parks & Recreation Advisory Board, for maintaining her composure and doing a good job in chairing their last meeting.

Ms. Randall addressed City Council and explained that Judy Langford had helped them with the Priority Facility List. She said they talked about things on the list that are in every park, and this is what she is presenting. She told Council that this is only a wish list and it doesn't mean that we will do these things. Council held discussion with Ms. Randall. She told Council that she only needs for them to approve the List so that the Parks & Recreation Advisory Board can apply for a grant; this would be their next step.

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Alderwoman Schott brought up the issue of complaints she's received about cracks in the asphalt walking trail at the Briscoe Park; she said the grass has grown into the cracks. Discussion was held that this is something that can be looked at next year.

Alderman Espinosa inquired about the City's purchase of the house on Tilley Drive, next to the John Curcio Park. Council held discussion on this.

Motion by Alderman Thompson, seconded by Alderman Espinosa to approve the minutes along with the recommendation for the Parks & Recreation Advisory Board Meeting held on April 2, 2019.

Ayes	--	All
Nays	--	None

Motion carried.

Motion by Alderman Lopez, seconded by Alderman Thompson to Approve the Master Park Plan Priority Facility List.

Master Park Plan Priority Facility List attached as Exhibit C.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to discuss and consider the change submitted by the Public Utility Commission of Texas on right-of-way access line rates.

City Attorney Tom Cate informed Council that the Public Utility Commission of Texas is just giving us notice that our city's maximum access line rates have increased due to inflation. According to Interim City Administrator/City Secretary Dora V. Rodriguez, we want to stay with the default rates, which is what we do every year. City Attorney Tom recommended that we stay with the default rates.

Motion by Alderman Espinosa, seconded by Alderman Valdez to stay with the default concerning the change submitted by the Public Utility Commission of Texas on right-of-way access line rates.

Ayes	--	All
Nays	--	None

Motion carried.

The thirteenth order of business was to discuss and consider closing the Devine Municipal Golf Course on Easter Sunday.

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Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that the Devine Golf Association closed on Easter Sunday last year, and she recommended to Council that we close so that our employees can be with their families on Easter Sunday.

Motion by Alderman Thompson, seconded by Alderwoman Schott to approve that we close the Devine Municipal Golf Course on Easter Sunday.

Ayes	--	All
Nays	--	None

Motion carried.

The fourteen order of business was to discuss and consider allowing the consumption of alcoholic beverages on the premises of the Devine Municipal Golf Course when such beverages have not been purchased from the Devine Municipal Golf Course.

Interim City Administrator/City Secretary Dora V. Rodriguez brought up the issue of beer consumption during golf tournaments. She told Council that the reason we wanted to sell beer in the first place was to make money. She explained that a lot of these people having the tournaments have sponsors that like to donate beer. She is recommending that they buy the beer from the Devine Municipal Golf Course instead of from the beer distributors, and it would still be just for the tournament but at least they've already bought it from us.

City Attorney Tom Cate explained that the organizers of the tournaments wanted to allow the consumption of beer that they brought on, but what we're saying is, "yes, we'll allow that you can consume your beer as long as you purchase it from us."

Alderman Lopez talked about the Crime Stopper Tournaments. Usually car dealerships donate beer, which they already have in stock because the beer distributors donate it to the dealerships – no one purchases it. Interim City Administrator/City Secretary informed Council that she contacted TABC, and they advised that it is a business move on the City and we can do this; it would be a win/win situation for both parties.

Council held lengthy discussion on this, and also held discussion with Ruben Chapa, Devine Municipal Golf Course Superintendent regarding other neighboring golf courses.

Motion by Alderwoman Schott, seconded by Alderman Lopez to postpone any action on the consumption of alcoholic beverages on the premises of the Devine Municipal Golf Course when such beverages have not been purchased from the Devine Municipal Golf Course.

Ayes	--	All
Nays	--	None

Motion carried.

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The fifteenth 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 7:08 p.m., Mayor Herring announced to the public that the Council would go into a Closed Session.

At 7:24 p.m., Closed Session was open 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 Executive Session.

Motion by Alderman Lopez, seconded by Alderman Espinosa to authorize the City to get an appraisal on the property discussed in Executive Session.

Ayes	--	All
Nays	--	None

Motion carried.

The seventeenth order of business was to Review the Quarterly Report.

Council reviewed report. No action was taken.

The eighteenth order of business was Informational Items.

- Devine Little League – Devine Police Department gave approval to the Devine Little League for the closure of streets for their baseball season which started April 6, 2019.
- Taste of Italy – Will be Saturday, September 28, 2019, sponsored by the Devine Food Pantry.
- Community Health Fair – Will be Saturday, May 4, 2019 from 9:00 a.m. to 2:00 p.m. It's being sponsored by Medina County ESD #4.
- Edward's Aquifer ASR Program – Mayor Herring announced that we won't be participating in this any longer because they want five-year contracts and we won't go for more than a year.
- Free Community Easter Egg Hunt – Will be April 20, 2019 at 1:00 p.m. at the Briscoe Park.
- Water Leak – Interim City Administrator/City Secretary Dora V. Rodriguez announced that TxDOT has informed us that we have a leak on SH-173 and SH-132 (by the Shell) and we don't have that kind of machinery to use. She said that TxDOT put it back on us; they said that if we're not going to do anything about it, they're going to cover the final asphalt. If it becomes a sink hole, the liability will be on the City and not on them. TxDOT is willing to hold off because we found a contractor (out of Boerne) who specializes in this. They will be here on Monday with their sonar equipment (because we don't know where the leak is) and

they will be starting after 7:00 p.m. and working well past midnight. They will be stopping at Burnt Boot Creek. TxDOT said they can't re-route traffic but our Police Department can. This will be a team effort with our Police and our Public Works departments, and we need to get it done ASAP. We are looking at a cost of \$4,000 just to start. Council held discussion on the running water and where the water might be coming from.

- SH-132 – Mayor Herring announced that TxDOT is scheduled to work on SH-132 in early 2020. He said TxDOT was going to do it the end of this year but it was pushed back because of all the work they had to do on SH-173 and Hondo.
- Recycling – Alderwoman Schott inquired about Recycling. She understands that it was never in our contract but said that one of her customers suggested that we have bins located throughout the City where people could just drop off their recyclables. City Accountant Denise Duffy mentioned that we talked to Blake and he said that no one is buying recyclables and it's not beneficial anymore; the country of China is not doing this anymore. Marly Davis also talked about how they used to ship all of their recyclables to China but they don't want it anymore, and no one is making money off of recycling, so it's all going into the garbage.
- Speed bump on Coker – Interim City Administrator/City Secretary Dora V. Rodriguez announced that the speed bump on Coker is already gone; Superintendent of Public Works Rob Flores removed it. The issue was that people were just driving around it. Since it was part of an ordinance, City Attorney Tom Cate advised that we can just amend the ordinance.

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

Ayes	--	All
Nays	--	None

Motion carried.

Mayor

City Secretary