

Minutes
Regular Meeting
December 14, 2021

On this 14th day of December, 2021, 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 Dr. George S. Woods Community Center, 200 E. Hondo Avenue, Devine, Texas 78016. 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 Cory Thompson
Alderman David Espinosa
Alderwoman Debbie Randall
Alderman Rufino Vega
Alderwoman Kathy Lawler
Alderwoman Angela Pichardo

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; and Rob Flores, Director of Public Works/Emergency Management Coordinator; Pete Sanchez, Field Operations Supervisor; and Eddie Diaz, Waste Water Treatment Plant Foreman.

Others Present: K. K. Calame and Marly Davis, Devine News; Raul Garcia, Jr., Garcia & Wright Consulting Engineers; Darren Van Fossen, DISD; Scott & Shirl Grego, SG Golf Management; Gene Buckner; Marcus Buckner, Devine Chamber of Commerce; Bonnie Manning; Kevin Hicks; and Steve A. Lopez; of Devine, Texas.

Mayor Thompson, presiding, declared the meeting open.

Mayor Thompson delivered the Invocation. Alderman Espinosa led the Pledge of Allegiance to the United States Flag, and Alderwoman Pichardo led the Pledge of Allegiance to the Texas Flag.

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

- Angela Pichardo – Alderwoman Pichardo made two clarifying statements about things that have been said in the past. She was informed by Mr. Will Trevino of TML Legal Counsel on items that are either agenda or city items. He stated that, yes, a council member can place time limits on discussions amongst themselves, but only a council member can do this. The time limits are not adjusted or according by the Mayor's rule. So, with the three-minute time limit that Council had previously stated, it would actually be a decision by Council to enact that. She said we are to discuss certain issues and we are here to represent the citizens. Also, according to Mr. Trevino, any council member is allowed to request any documentation that is pertaining to the City, in order to make informed decisions.

Regular Meeting Minutes
December 14, 2021
Page 2

- Mayor Thompson – Clarified that he’s always given everyone five minutes to speak, not three; it’s always been five minutes.
- Kevin Hicks – Spoke of the Open Meeting Act and items on the agenda. He said that one of things he would like to look at is the refrigerator deal going on with the golf course. He talked to Council about the possibility of renting a refrigerator from a company out of Von Ormy. He went over some terms and costs with Council over a 20’ box and said one could be here at the golf course until the one we ordered gets delivered. He gave Council a contact name of Ray Greco and his phone number. He just wanted to add this update to what they are looking at. He held discussion on the contract. Also, regarding the sale of the golf course, he said it was on the agenda for the Regular Meeting, June 15, 2021 and again on the agenda for Special Meeting, August 10, 2021. He said the Council voted to sell but this did not happen in November, 2021, and he wants to bring it back up to move it to the next election cycle.
- Marcus Buckner, Chamber President – Thanked everyone for all of their help with the Cactus Fall Festival. He also provided a handout to Council on the Devine Chamber of Commerce’s 2021 Fall Festival Profit and Loss Report. He went over this with Council to show where the money from the Hotel tax went.

The second order of business was Public Recognition.

- Alderwoman Pichardo – Recognized the Public Works guys for helping to get the Christmas Tree set up at the four-corners, and she thanked Mr. Jeff Gordon for placing the star on the Christmas Tree.
- Mayor Thompson – Mayor Thompson gave a statement on Alderwoman Pichardo’s comments made at last month’s meeting and referred to her perpetual misbehavior, disruptions and engagement in multiple outbursts. He went over the Policy and Procedures of Council, talked about micromanaging, and spoke of his responsibility in maintaining order throughout the meeting. He asked Council to please read the Rules & Regulations and the Policy & Procedures, and basically asked Council to work with him in stopping the three-ring circus that our council meetings have become.
- Alderwoman Randall – Read a Point of Personal Privilege to Council on the importance of the confidentiality of discussions held in executive sessions. She said all council is aware that these discussions are not to be repeated outside the walls of the room the session is held in. She expressed her anger and disbelief on one councilperson whom she feels has breached the trust and confidentiality of all council members, by repeating a discussion almost word-for-word to an outside source. She said that this councilperson is not worthy of the seat she is sitting in and stated that, in her opinion, this person should step down.

The third order of business was Employee Recognition.

There was no employee recognition at this time.

The fourth order of business was to consider approval of Council Minutes: Regular Council Meeting Minutes, October 19, 2021; and Emergency Meeting Minutes, November 16, 2021.

Regular Meeting Minutes
December 14, 2021
Page 3

Council reviewed minutes.

Motion by Alderwoman Randall, seconded by Alderwoman Pichardo to approve the minutes for Regular Council Meeting, October 19, 2021 and Emergency Meeting Minutes, November 16, 2021.

Ayes	--	All
Nays	--	None

Motion carried.

The fifth order of business was to consider and act upon a variance request from Gene Buckner to not build firewall on east side of property (with no buildings) while in process of purchasing property, and requesting variance for a side setback of 3 feet instead of 10 feet on south side of property for no requirement of firewall.

Mr. Gene Buckner talked to Council about his storage facility project near Tractor Supply. He talked about the property lines and said he wants a variance on a firewall next to the parking lot and the property he is buying.

Council held lengthy discussion.

City Attorney Tom Cate talked to Council about the health and safety issues under the fire code.

Acting Code Compliance Officer Eddie Diaz explained that this is part of the Building and Fire Code which Bureau Veritas is enforcing because it is close to the property line, and this is why it is being brought before Council.

Alderman Espinosa commented that he is all for progress but at this time, he needs to enforce the code of ordinances that we have in place. Mr. Gene Buckner understood and told Council he is going to do both walls once he builds on the other property.

Lengthy discussion was held on the 3 feet setbacks with all council members.

Alderwoman Randall stated that she does not have a problem with the variance request for the side setback of 3 feet; but is not good with the firewall variance.

Motion by Alderwoman Randall to grant a 3 feet side setback variance but not to grant a variance on the firewall.

Motion failed for lack of a second motion.

Mayor Thompson asked about other motions.

Regular Meeting Minutes
December 14, 2021
Page 4

Mr. Buckner inquired that if he puts a firewall in, if he can build on the property line. City Attorney Tom Cate confirmed that this is correct.

Motion by Alderwoman Randall, seconded by Alderwoman Lawler to not grant a variance for the firewall.

Ayes	--	Four – Alderwomen Randall, Lawler, Pichardo, Alderman Espinosa
Nays	--	None
Abstain	--	One – Alderman Vega

Motion carried.

The sixth order of business was to consider and act upon Devine Independent School District’s request on the renovations of the Tennis Courts.

Mr. Darren Van Fossen from Devine ISD addressed Council on the tennis courts and lights. He explained the cost is split three ways between the City – 1/3, School – 1/3 and County – 1/3; however, the County has declined so it’s going to be School – 2/3 and City – 1/3. Mayor Thompson explained that the tennis courts are left open for the public to use when the school is not using them.

Alderwoman Pichardo asked about the liability. According to Mr. Van Fossen, it is on school property so ultimately the liability falls on the school. According to Alderwoman Pichardo, the City’s 1/3 cost is \$10,165.65 and it is an asset. She said it’s a lot less than other entities we are paying on.

Mayor Thompson said we do have an interlocal agreement and said, “yes,” on paying our 1/3 share. City Attorney Tom Cate stated that they are doing what they are supposed to do.

Motion by Alderman Espinosa, seconded by Alderman Vega to approve moving forward with paying \$10,165.65 (City’s 1/3 share) and to amend the Park’s budget by that amount.

Ayes	--	All
Nays	--	None

Motion carried.

The seventh order of business was to consider and act upon Contract Revision between City of Devine and SG Golf Management.

Council held lengthy discussion with City Attorney Tom Cate as they went over the contract on some areas that needed clarification, mainly Sections 18.02, 18.03 and 18.04. City Attorney Tom Cate explained that wages are included so there should be no misunderstanding of the contract.

Scott Grego told Council that he’s read the contract and he just wants to make sure that Payroll is included in the contract and considered an expense.

Regular Meeting Minutes
December 14, 2021
Page 5

Council discussed that the original contract stays the same and according to City Attorney Tom Cate, the only changes are on what we talked about in Sections 18.02, 18.03 and 18.04; what is in italics.

Alderman Espinosa asked Scott Grego if he is still refusing to turn in paperwork. He said the taxpayers have a right to know where the \$32,536 is going. Scott Grego stated that he is still not going to turn in any paperwork, and he added that City Secretary Dora V. Rodriguez knows where the money is being spent.

Mayor Thompson stated that we are paying SG Golf Management as a third party and we do not ask other vendors for this information.

Alderwoman Pichardo commented that we represent the City and the taxpayers. She stated that we give SG Golf Management \$32,536 and City gets nothing back. She said that we don't support other private entities and asked, "Why are we supporting him?" She told Council that we are going to have to raise taxes and we are not going to recoup the money we have spent. She feels that we need to bring this back to the table, and added, "How do we stop this?"

Mayor Thompson stated that we can stop paying this as soon as we finish the Clubhouse; it is not done yet.

Lengthy discussion was held on using the building, yet the building has not been completed.

According to Eddie Diaz, he's spoken with the fire inspector and the life and safety inspector from Bureau Veritas. He explained that if it is good, we can issue a temporary Certificate of Occupancy, but if there are any life and safety issues, then we can't issue the C of O.

Motion by Alderwoman Randall, seconded by Alderman Vega to amend the contract between City of Devine and SG Golf Management for Section 18.02 – to add a sentence on Payroll being considered an expense, Section 18.03 and to add 18.04, as presented by the City Attorney.

Ayes	--	Two – Alderwoman Randall, Alderman Vega
Nays	--	Three – Alderwomen Pichardo, Lawler and Alderman Espinosa

Motion failed.

The eighth order of business was to consider and act upon the following items concerning Republic Services Company's Garbage Collection:

- A. Churches and Non-Profits collection charges. – Mayor Thompson stated that Republic initially denied to do this but since it got put on the agenda, they have asked to have a sit-down meeting to actually discuss this.
- B. Response to Republic Services Company's treatment of Churches and Non-Profits up to and including termination of contract.

Regular Meeting Minutes
December 14, 2021
Page 6

Mayor Thompson inquired if we want to go ahead and start the termination process; it's a very long process and we cannot go out for bids for three years. He said they are not going to make the changes to the current contract.

City Attorney Tom Cate explained that once we amend the contract, it's good for 48 months. Alderwoman Randall commented that if we don't start now, we are going to keep adding four years. She said that we can start now and go to bid in three years, or we just keep taking what they are doing to us. She said, "I say we say goodbye!"

Alderwoman Lawler inquired if it was typical for a four-year contract. City Attorney Tom Cate said, no it is not, but it was an agreement between the administrator and the contractor, and it was brought to Council. Mayor Thompson added that it helps lock in prices. City Attorney Tom Cate explained that different garbage companies are using different CPI's. He explained that we can give a termination notice, but it would start at the end of the current fiscal year ending 2022; so, it would be a 120-day notice before September 30, 2022. According to City Attorney Tom Cate, we could give notice in June 2022.

Alderwoman Pichardo would like to bring others to the table to give them the opportunity. Mayor Thompson said there will be no renegotiations of the contract for now. According to City Attorney Tom Cate, they may renegotiate if we give notice, but we won't know until they talk to us.

Motion by Alderwoman Pichardo that we come together to discuss the contract with Republic Services.

Before voting, Mayor Thompson recommended that Council go ahead and vote tonight to go ahead and start the process of termination of the contract; we have plenty of time for discussion.

Motion died for lack of a second.

Motion by Alderman Espinosa, seconded by Alderwoman Randall to start termination procedures.

Ayes	--	Four – Aldermen Espinosa, Vega Alderwomen Randall, Lawler
Nays	--	One – Alderwoman Pichardo

Motion carried.

The ninth order of business was to discuss and act upon options submitted by Double J Asphalt for redoing the Walking Path at the Briscoe Park.

Council held discussion with Public Works Director Rob Flores on the walking path. Council reviewed bids from Double J. Asphalt. He confirmed that they will only do the paving.

Regular Meeting Minutes
December 14, 2021
Page 7

Alderman Espinosa inquired who had inspected this and made the determination. According to Public Works Director Rob Flores, Double J Asphalt originally installed the walking path. Alderwoman Lawler commented that it needs to be attended to because so many people use the walking path.

Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that City Engineer J.R. Garcia will verify the numbers and make sure the cost is okay. J.R. agreed that he will make sure the numbers are good.

Discussion was held on when we can start. Public Works Director Rob Flores stated that he's not sure when they can start as they were very busy.

Motion by Alderwoman Lawler, seconded by Alderwoman Pichardo to go ahead and approve for Double J to do the bid for \$6,547.50, pending J.R.'s numbers.

Ayes	--	All
Nays	--	None

Motion carried.

At 7:51 p.m., Alderwoman Randall and Alderman Vega stepped away. At 7:53 p.m., they returned.

The tenth order of business was to discuss and act upon options submitted by City Engineer Raul Garcia Jr. for the Airport Ramp and Apron.

Council held discussion on asphalt replacement and minor channel grading at the airport and reviewed construction costs and a map. Interim City Administrator/City Secretary told Council it is a 50/50 percent grant. She inquired as to what is the priority on this. According to City Engineer J.R. Garcia, the priority will be the asphalt and the exiting of water from between the hangars.

Council held lengthy discussion with City Engineer J.R. Garcia Jr., and Public Works Director Rob Flores. Council is looking at a total of \$61,549.20 for the first three items for asphalt replacement, channel, and grading, plus water lines.

Motion by Alderwoman Randall, seconded by Alderwoman Pichardo to go ahead and do the first three items submitted by City Engineer Raul Garcia Jr. and use the RAMP Grant, and to amend the budget by \$61,549.20.

Construction Costs attached as Exhibit A.

Ayes	--	All
Nays	--	None

Motion carried.

Regular Meeting Minutes
December 14, 2021
Page 8

The eleventh order of business was to discuss and act upon adopting an ordinance for 3 speed humps to be installed on W. Malone Drive, and to lower the speed limit to 25 mph.

Council held discussion.

Motion by Alderman Espinosa, seconded by Alderwoman Lawler to adopt Ordinance 12-21 for the 3 speed humps on W. Malone Drive, and to adopt Ordinance 12-21A to lower the speed limit on W. Malone Drive to 25 mph.

Ordinances attached as Exhibits B and C.

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was Informational Items.

Council discussed the following:

- Election – Interim City Administrator/City Secretary Dora V. Rodriguez went over this info.
- Golf Course – They have a sewer problem. Public Works Director Rob Flores ran a camera on both lines. The line in back of the building runs to the swimming pool. They cleared it and it was running clear. But after talking to Scott Grego, they had an event Friday, and water was coming up a little, so there's an issue with the swimming pool needing to re-run the lines. We need to have separate lines for the pool and the clubhouse. Also, the transformer was supposed to be done on December 15, 2021 but Scott changed it to January 4, 2022.
- 1st Choice Point – Jason with 1st Choice Point is waiting on customer; we have everything but the walk-in cooler. Alderwoman Lawler asked if we can check into a rental walk-in until we can get the walk-in cooler we have ordered.
- Certificate of Occupancy – Alderwoman Pichardo wants to check into the C of O so that the City is not liable, and she wants to bring John back to talk about this.
- Municipal Court – A lot of the violations were No Shows so warrants will be issued.
- HOME Program – 305 Lorraine paperwork is complete and has been recorded at the courthouse.
- CDBG – Had bid opening on transmission lines. This will move them from the Asbestos Project.
- Asbestos Project – Paula Rodriguez found out that metes and bounds will need to be done.
- City Administrative position – Alderwoman Pichardo and Alderman Espinosa both asked for updates on this.
- Contract with Fire Dept. on Fire Hydrants – Alderwoman Randall inquired on the status of the contract. City Attorney Tom Cate commented that, yes, they will be doing this. Interim City Administrator/City Secretary Dora V. Rodriguez informed Council that Public Works Director Rob Flores is in contact with the Fire Department on this matter.

Regular Meeting Minutes
December 14, 2021
Page 9

- Updates/Executive Sessions – Mayor Thompson told Council that we will no longer be giving out updates like we used to, and we will not be doing Executive Sessions because of what has happened in the past with what has taken place in executive session and being told to the public. Mayor Thompson read emails he received from Kim Davis. He said no one in the general public knew she had applied, and it was only brought up in executive session by one person who wanted the interview. He said that there’s no point in having Executive Sessions when we cannot have free and honest discussions. He said updates will be given like Interim City Administrator/City Secretary Dora V. Rodriguez just did. He told Council that if they want information, they need to do it as a public open records request.

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

Ayes	--	All
Nays	--	None

Motion carried.

Mayor

City Secretary