

**Minutes
Regular Meeting
March 15, 2022**

On this 15th day of March, 2022, 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 the 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: Raul H. Garcia, Jr., City Engineer, Garcia & Wright; Christen Longoria, TXDOT; Ron Richards, Natalia, Texas; Brianne Alston; Steve A. Lopez; Brian Navarro; Josh Ritchey; Jay D. Dishman; Patti Hefley; Karen Navarro; Melissa Stevens; Jerry Stevens; Heather Schultz, Steven Schultz; Darlene Lozano; Aurora Hernandez and Aubrey Sereno 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.

- Alderwoman Angela Pichardo – She addressed Council about statements made at the last council meeting by another council person regarding posting meetings incorrectly and resigning. She said the statements were incorrect and nonfactual. In reference to resigning, she stated that she will not resign. She said she represents the citizens of Devine and she will not use her position for political gain.
- Brianne Alston – She addressed Alderwoman Pichardo on her comments made at the Regular Council Meeting on February 15, 2022. She told Ms. Pichardo that she used the fire that occurred in her district that day against the people who were attending from the golf course, basically making them feel bad for being in attendance to discuss the golf course instead of caring for the people who lost everything in the fire. She told Ms. Pichardo she did not appreciate her using this for her political antics. She talked about Ms. Pichardo's posts on Facebook. She talked about Ms. Pichardo's comments about how much she cares for the children and of her desire to assist the Little League only from the Golf Management funds when there are many other sports in Devine to consider. Ms. Alston told Ms. Pichardo that she wished she were a true leader, and she asked her to stop the drama and take care of business or resign.

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- Josh Ritchey – He addressed Council on some things he wants them to consider, such as:
 1. Getting an automation system to help out at City Hall.
 2. Cyber Security – Gave different examples and strategies that will work better.
 3. Streets – He suggested that we put down aggregate first before paving to extend the life of the streets.

The second order of business was Public Recognition.

Mayor Thompson thanked the Devine Volunteer Fire Department, Devine Police Department and Public Works for all that they did in helping with Sunday’s fire.

The third order of business was Employee Recognition.

Alderwoman Pichardo recognized and thanked Officer Schmelzer for pulling the gentleman out of his house during Sunday’s fire, and acknowledged him for his bravery.

The fourth order of business was to consider Approval of Council Minutes: Special Council Meeting Minutes, February 8, 2022.

Council reviewed minutes. Alderwoman Randall pointed out that the last paragraph on Page 4 of the minutes, read Ryan Navarro instead of Brian Navarro, and it needs to be corrected.

Motion by Alderwoman Pichardo, seconded by Alderman Espinosa to approve the minutes for Special Council Meeting, February 8, 2022, with the correction from Ryan Navarro to Brian Navarro on Page 4.

Ayes	--	All
Nays	--	None

Motion carried.

The fifth order of business was to consider and act upon concerns regarding the City Attorney and Political Activities.

Mayor Thompson said people have approached him about concerns over City Attorney Tom Cate running for Mayor at the City of Lytle. He asked if anyone wanted to speak.

No one spoke on this item.

No action was taken.

The sixth order of business was to consider and act upon TXDOT Municipal Maintenance Agreement.

Council reviewed the TXDOT Municipal Maintenance Agreement.

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Christen Longoria, the TXDOT Area Engineer for Medina County who oversees this area for construction and maintenance, told Council that this is an update of the agreement; the last agreement was signed by former City Administrator Gary Pelech back in 2011. She explained that the agreement just reminds us of the City's responsibilities and TXDOT's responsibilities in the city limits for TXDOT right-of-ways.

Alderwoman Randall inquired if there is anything different from the one in 2011. City Attorney Tom Cate responded that there is no difference and explained that TXDOT will be operating just like they have been operating. According to Ms. Longoria, all maintenance agreements are the same no matter what city.

Motion by Alderwoman Randall, seconded by Alderwoman Pichardo to approve the TXDOT Municipal Maintenance Agreement, and authorize the Mayor to sign.

Agreement attached as Exhibit A.

Ayes	--	All
Nays	--	None

Motion carried.

The seventh order of business was to consider and act upon request made by Darlene Lozano to be annexed into the city limits and to receive utilities for the A0069 J. Brothag Survey 15, Acres 1.790 (R507044).

Council reviewed request and maps, and held discussion on the original tract of land with grandfathered utilities.

Darlene Lozano told Council that she didn't realize when she made the purchase that it was a divided property.

Alderman Espinosa inquired if we are able to provide utilities to her property.

According to Interim City Administrator/City Secretary Dora V. Rodriguez, at the moment we cannot provide utilities. She explained that in order to get utilities, they have to be annexed into the city limits; she said that this is the only way we can provide services from the City. She explained that Property R2120 (on the map), the property north of Ms. Lozano's, will need to be annexed as well.

City Attorney Tom Cate stated that not all parties may want to be annexed. He explained that the whole property area needs to be a continuous line to our city limits. Council held discussion on an easement.

Alderman Espinosa inquired if this would need to go before the Planning & Zoning Commission. City Attorney Tom Cate and Interim City Administrator/City Secretary Dora V. Rodriguez both responded that it does not.

The next step, according to City Attorney Tom Cate, will be for everyone who wants to be annexed, they will need to petition the City to be annexed. If we don't get a petition from R2120, we won't be able to annex Ms. Lozano. Interim City Administrator/City Secretary Dora V. Rodriguez added that Ms. Lozano will need to get in contact with the owner of the warehouse and get an agreement with them and then they will need to submit a petition to the City.

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City Attorney Tom Cate explained that if Ms. Lozano's property had been continuous next to the city limits, we could've just annexed her property, but we have to have the warehouse owner agree to the annexation.

Motion by Alderman Espinosa, seconded by Alderwoman Lawler to table this item until we have more information from the other parties involved.

Ayes	--	All
Nays	--	None

Motion carried.

The eighth order of business was to discuss TXDOT sidewalks.

Mayor Thompson explained to Council that Judy Langford, of Langford Management Community Services, believes that the TXDOT grant for this project will be coming up again next year. He said that we need to start working on the application now and on letters of endorsement from businesses and from people who walk along the area. He explained that if we get the letters now, it will fall into the cycle that we need. This is a grant for about \$1.2 Million and it will be a 50/50 match. If we are going to do this, then we need to start budgeting and getting letters in place.

Alderwoman Randall inquired if we would have \$500,000 in next year's budget for the sidewalks. Per Mayor Thompson, we will work on the budget.

Council held discussion on preparing for this.

Christen Longoria recommended for Council to go ahead and apply for this. She informed Council that Darcey Sheppler will be doing a presentation on Sidewalks in Hondo at their meeting on March 22, 2022.

According to Interim City Administrator/City Secretary Dora V. Rodriguez, city staff will get with Judy Langford about getting a template for the form letters.

According to Alderman Espinosa, each district needs to work together on this. Mayor Thompson added that we will start with the schools first. He said that Walmart is a problem but the schools have had the problem longer.

City Engineer J.R. Garcia told Council he doesn't have any experience with TXDOT sidewalks but he does have experience with city sidewalks in San Antonio.

This was for discussion only and will need to be put back on the agenda.

The ninth order of business was to discuss selecting streets for the Street Paving Project.

Mayor Thompson stated that we need to get a street list and compare it to the maps of the waterline project. He said that we need to get with Jerry Beck. Alderwoman Randall offered to reach out to Jerry Beck.

Alderman Vega brought up Anderson Street. Interim City Administrator/City Secretary Dora V. Rodriguez told Council that there is something about Anderson; she has a folder on this and will look into it.

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Mayor Thompson stated that we do have some money left and asked Interim City Administrator/ City Secretary Dora V. Rodriguez if they can start sending a list of streets to her to be able to start working on them. Interim City Administrator/City Secretary Dora V. Rodriguez said, yes. Then she will get together with Director of Public Works Rob Flores so he can get with City Engineer J.R. Garcia.

The tenth order of business was to consider and act upon selecting a new Water Company to begin work on existing water line implementation and for new Company to begin within 60 days, if not sooner, or once Water Funds are released for use – Requested by Alderwoman Angela Pichardo.

Interim City Administrator/City Secretary Dora V. Rodriguez explained to Alderwoman Pichardo, since she requested this item to be on the agenda, that we cannot hire contractors because we do not have an approved plan yet, so we can't advertise for a contractor without any plans. She explained that City Engineer J.R. Garcia has submitted plans to the Texas Water Development Board (TWDB) and we are in the process of waiting on this to be approved; however, TWDB is behind 6-7 months. Alderwoman Pichardo said she appreciated the information.

City Engineer J.R. Garcia told Council that hopefully in 30 days, Phase 1 will get approved. Then Phase 2, hopefully; in 30-45 days after submitting, will get approved. He said that his concern are the prices, and suggested that maybe we need to wait and see if the prices come down. Regarding the transmission lines, we've put out a request for metes and bounds. He told Council that we are making progress on getting this done.

Alderman Espinosa stated that we don't have the resources to do the project. According to City Engineer J.R. Garcia, it's not that we don't have the resources but with costs going up so much, we may need to keep an eye on prices and then when the prices come down, go out for bids.

Alderwoman Pichardo inquired about the bid for April 16, 2022. City Engineer J.R. Garcia clarified that that's for the CDBG. He said we went out for bids and need to see how the bids come in.

Mayor Thompson talked about the actual bid awarded and when the actual project can get started.

City Engineer J.R. Garcia stated that we can award the contractor but it can be months before he can get his supplies in.

Alderman Espinosa stated that what we have is not enough to finish. According to City Engineer J.R. Garcia, we should have enough to finish Phase 1 and, hopefully; we can do more.

No action was taken.

The eleventh order of business to consider and act upon to have a portion of, or all of, the Golf Management Funds transferred (\$32,536) for two months to assist in improving or building new bleachers, dugouts, concession stands and any other structures as needed prior to Little League Opening Season – Requested by Alderwoman Angela Pichardo.

Interim City Administrator/City Secretary Dora V. Rodriguez corrected Alderwoman Pichardo on the amount of the funds, since she is the one who requested this item. (On Alderwoman Pichardo's original request, she had an incorrect amount; the correct amount is \$32,536).

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Mayor Thompson stated that we operate on a budget and inquired where in the current budget is the \$65,000 for the Little League? (Budget for two months).

Aldermwoman Pichardo stated that her understanding is that we were to pay SG Management from here on out and since they resigned, she was hoping that we could transfer that money so we can help the kids. Mayor Thompson explained to her that in the new budget which Council approved, we only budgeted to pay SG Golf Management \$32,536 up until December 2021. So, anything we've paid them beyond that is over budgeted and we are in deficit paying SG Golf Management.

Aldermwoman Lawler stated that she's all for helping the kids. She said opening day for the Little League is Saturday, and said that maybe we can look at this again during budget time for next year.

Mayor Thompson reminded everyone that the City gives water to the Little League; in December 2019, we gave them \$20,000 for lights; and we fixed their water line in February 2020 which cost over \$5,000 to do this. He stated that we need a letter from the organization, signed by the organization, and then they need to come and talk to City Council to get funds from the City.

Aldermwoman Lawler inquired if this should be addressed to the Parks and Recreation Advisory Board first. Discussion was held on this.

Council then heard from Aurora Hernandez on Little League concerns. She talked about new concessions and the press box. She also told Council that during the freeze, their pipes broke inside the walls. She said they are trying to do fundraisers to help with expenses. She told Council that they would like to do two full fields.

Mayor Thompson talked about getting with the Parks and Recreation Advisory Board, getting with Interim City Administrator/City Secretary Dora V. Rodriguez, and waiting to see what the City Engineer's report says about the press box. There was also talk about that building being torn down and putting up a portable building.

Aldermwoman Pichardo talked about the property belonging to the City, and held discussion on a new concession, new press box, and new seating, so that we can correct all safety concerns.

Aldermwoman Randall brought up the contract and talked about the Little League doing the maintenance themselves.

Mayor Thompson stated that we will need to look at the contract. City staff will follow up with City Engineer J.R. Garcia on the press box.

No action was taken.

The twelfth order of business was to consider and act upon beginning the interview process for all applicants that have submitted an application for the City Administrator's position, and vote to have a new city administrator in place by April 15, 2022, or sooner – Requested by Aldermwoman Angela Pichardo.

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Interim City Administrator/City Secretary Dora V. Rodriguez pointed out that she had corrected the agenda item to read city administrator and not city manager as Alderwoman Pichardo had originally requested. She explained we have a form of City Administrator ordinance, not a City Manager.

Alderwoman Pichardo told Council that there had been discussion in the past about hopefully having a new city administrator in three months, so she is suggesting that we start interviewing so that we can have someone in place by April 15, 2022.

Mayor Thompson held discussion with Council and made several points, namely:

- Council already set parameters on what they want from these applicants. He said we've gotten some applicants but they don't meet the requirements that we set.
- How are we going to interview if we aren't doing any closed sessions anymore?
- How do we protect the applications from going public, like ending up on social media?
- How do we keep Council members from contacting the applicants or the applicant's employers?
- We budgeted \$120,000 for this. This is the only place we are saving in the budget; it's the only place that Council is not spending money.

Alderman Espinosa – If the applicant wants to be interviewed in closed session, how do we do this? Mayor Thompson said we would have to modify our request and note that the interview will be done in open session.

Alderwoman Lawler – Why don't we sign a confidentiality statement? City Attorney Tom Cate stated that it's hard to enforce. They have the right to freedom of speech. Council held discussion on this with City Attorney Tom Cate. Alderwoman Lawler and Councilman Espinosa felt that the interviewing should be done in closed session. City Attorney Tom Cate advised that Council can take a vote to go to closed session. Mayor Thompson stated that we may have to make some changes and decide how we are going to move forward with this, on what we want to do.

Alderwoman Randall pointed out that we do not have the money in the budget for a city administrator because of the deficit we are in, but it doesn't mean that we cannot start planning and maybe start interviewing in July. She suggested that maybe we can advertise at the end of summer and hire in October 2022.

Interim City Administrator/City Secretary Dora V. Rodriguez told Council that once we start the advertisement process, then we need to stay on top of it. Mayor Thompson suggested that we do two 30-day rounds out to narrow down some fields, and then start the interviewing process. He talked about re-doing the umbrella and added that we need to make sure that we give Interim City Administrator/City Secretary Dora V. Rodriguez a good path to follow for the applications. He said we can put this for the next regular meeting, and we will need to bring back the notes from the last time when we were advertising before to see how we want to modify the requirements for the next round. So there won't be any Council input until that next meeting to allow her to get the information together from past meetings of what Council had requested.

No action taken.

The thirteenth order of business was to review corrections to the Devine Golf Group LLC contract submitted by City Attorney.

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Council reviewed contract. Alderwoman Randall commented that it looked like it had everything.

Mr. Jay Dishman told Council they reviewed the contract and everything looks good. He inquired about the minimum standards of the USGA under Item 4 e. on Page 3 of the contract. City Attorney Tom Cate clarified that if USGA came in and made a suggestion, then the Devine Golf Group would need to work on that, and so we would need to have a third party.

On item 6.0 on Page 3 (last sentence), Mr. Dishman talked about not cutting down any trees but told Council that they will need to trim trees and just do an upkeep on them. City Attorney Tom Cate advised that he doesn't think it would be difficult to get permission from the City to trim any trees.

A lengthy discussion carried out on the trees.

City Attorney Tom Cate advised Council to strike "or limbs of trees" from 6.0 of the contract. Mr. Dishman agreed.

There was mention of a back fence that has been taken off and they would like to put it back up. According to City Attorney Tom Cate, all they need to do is call the City. He told Council that knowing Interim City Administrator/City Secretary Dora V. Rodriguez, she is going to let them know.

Alderwoman Randall inquired if they want to make improvements at their own expense, if we would really need to know what they are doing every time. According to City Attorney Tom Cate, on major ticket items, Interim City Administrator Dora V. Rodriguez will be bringing it up to Council. Alderman Espinosa added that she has the right to make decisions on her own, so she can handle the smaller items. Alderwoman Pichardo agreed.

Alderwoman Lawler commented that everything will be based on mutual respect and trust, and if they have any questions, they can call Interim City Administrator/City Secretary Dora V. Rodriguez to see if she is good with that.

Discussion was held.

Director of Public Works Rob Flores offered to be the liaison person between the City and the Golf Course. He said he was willing to do this since he is there anyways.

Jay Dishman told Council that everything else looks good; he said we can make this work.

Motion by Alderwoman Randall, seconded by Alderwoman Pichardo to approve the corrections made and authorize the Mayor to sign the contract.

Contract attached as Exhibit B.

Ayes	--	All
Nays	--	None

Motion carried.

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The fourteenth order of business to consider and act upon hiring Bryan McNeal, Professional Inspector, Certified Applicator of Cactus Property Inspections LLC, to inspect the Golf Course Club House to find any discrepancies that may not be on the punch list so that all items that need to be fixed or replaced can be included in the letter that the City Attorney is working on. This will allow the contractor to start all warrant work.

Council held discussion on having a third party do a fine tooth inspection. They will physically check each item in the club house and make sure it is in code compliant.

Alderwoman Randall inquired how long this will take. According to Interim City Administrator/City Secretary Dora V. Rodriguez, Mr. McNeal wants to be notified right away so that he can do the inspection as soon as possible. Alderwoman Randall inquired as to how long it will be for the letter, once he does the inspection. City Attorney Tom Cate said the letter will be done the next day.

Motion by Alderman Espinosa, seconded by Alderman Vega to hire Bryan McNeal, Professional Inspector, Certified Applicator of Cactus Property Inspections LLC, to inspect the Golf Course Club House to find any discrepancies that may not be on the punch list so that all items that need to be fixed or replaced can be included in the letter that the City Attorney is working on.

Ayes	--	All
Nays	--	None

Motion carried.

The fifteenth order of business was to consider and act upon rejecting TXCDBG Grant #7220119, Water Transmission Line Bid received by SAL Construction Management LLC, and to go out for re-bids.

Mayor Thompson explained that we are having to do this because this bid was too high. City Attorney Tom Cate added that before we can award any new bid, we need to reject this bid.

Motion by Alderman Espinosa, seconded by Alderman Vega to reject TXCDBG Grant #7220119, Water Transmission Line Bid received by SAL Construction Management LLC, and to go out for re-bids.

Ayes	--	All
Nays	--	None

Motion carried.

The sixteenth order of business was to consider and act upon change submitted by the Public Utility Commission of Texas Right-of-Way Access Line Rates.

Council discussed that we do this every year. According to City Attorney Tom Cate, in the past, we have not increased the rates. Interim City Administrator/City Secretary Dora V. Rodriguez added that we have always stayed with the default rates.

Motion by Alderwoman Randall, seconded by Alderwoman Pichardo to reject the change submitted by the Public Utility Commission of Texas Right-of-Way Access Line Rates, and to stay with the default rates.

Ayes	--	All
Nays	--	None

Motion carried.

The seventeenth order of business was Informational Items.

Council discussed the following:

- Auditor’s Report – The Auditors have moved the Audit Report to the April Regular Council Meeting.
- Update on Phyllis Martin’s Property on Bright – Interim City Administrator/City Secretary Dora V. Rodriguez reported that Eddie Diaz is in the process of doing a letter explaining that the property is zoned wrong. City Attorney Tom Cate is helping with this.
- Update on Fred Morales on the following:
 - Drainage Issue on Zig Zag – Director of Public Works Rob Flores is still looking into this.
 - Street Lights on Zig Zag – Eddie got with Fred Morales on three coordinates for the lights and Eddie has already forwarded this to AEP to get quotes.
 - City property – Dove/Bluebonnet – Alderman Espinosa wants Director of Public Works Rob Flores to reach out to Fred Morales to see what the issue is.
- Vehicle on Moore – Alderman Espinosa reported this. We need a letter. He inquired if we are in compliance for Business; it is in a Residential. Interim City Administrator/Dora V. Rodriguez stated that he removed the sign but is still working out of there. According to Alderwoman Randall, he is doing business out of his house. So, according to Interim City Administrator/City Secretary Dora V. Rodriguez, we need to send a letter that he cannot do business out of his residence.
- Victory Car Wash – Alderwoman Pichardo reported that there is trash all over the place. She inquired if we can implement them to remove trash several times a week.
- Red Cross – Alderwoman Pichardo informed Council that the Red Cross would like to set up an area here.
- Community Garden – Alderwoman Pichardo talked about doing a community garden at the Housing.
- Alderwoman Randall – Asked for updates on a variance for Fidel Velasquez, the Garbage Contract, and on I-Info (where we get updates from the County). City Staff will put I-Info updates on the next quarterly newsletter.
- Clarification needed – Interim City Administrator/City Secretary Dora V. Rodriguez went over the following requests with Alderwoman Pichardo, with her responses:
 - Where was management in violation of contract/grants? We were never told by the FAA and TXDOT that we were in violation and, if so, it would have come before the Council. The only thing brought to the Council was that if we did not remedy the Hangar which we are currently working on with TXDOT Aviation, yes, they could make us pay back the grants. In talking to them at the conference that we attended, they informed us that this is the worst case. They want to work with us as long as they see we are doing something.
 - Where would we have to pay back millions if we did not sell fuel at the airport? We were never told by the FAA or TXDOT that this would happen. If we did not sell the fuel by a certain time, we would not be able to use the fuel so we would be out the money we used to purchase the fuel, or we could pay to have it recertified, which we did. We also got reimbursed through the relief funds for all the fuel we purchased and the recertification cost.

The app you sent for the airport to use, we were informed by the Airport Manager that this is a standard app that all airports use, and she was already using this. Our Airport Manager has a network that she uses, which is why the fuel has been selling, as well as we are lower than the surrounding airports. Customers come to our airport to fuel up before going to the surrounding airports because we are cheaper.

- Emails request – I know you have sent emails requesting documents by a certain time frame. We have 10 days to respond to a request. We have a reasonable amount of time to produce the requested information. The amount of time to produce the requested information depends upon the availability of staff and on what other projects we have ongoing. We do not have a problem with getting information to the Council, but there will be times that we will send emails to the City Attorney for him to respond. We will sometimes ask the Council to make an appointment to come to City Hall to let them review what is too big to email to them like we did on your request on the documents you wanted on SG Golf Management. I had already emailed you and told you at the February 15, 2022 council meeting. So, we are asking if you can reach out to us to verify things before informing the public of information.

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

Ayes	--	All
Nays	--	None

Motion carried.

Mayor

City Secretary