

**Minutes
Emergency Meeting
January 20, 2023**

On this 20th day of January, 2023 at 11:00 a.m., the City Council of the City of Devine convened in an Emergency Meeting, at the City Council Chambers at 303 S. Teel Drive, Devine, Texas 78016. Notice of said meeting having been prescribed in Chapter 551, Government Code, Vernon's Texas Codes, Annotated, and the following members being present:

Mayor Cory Thompson
Alderman David Espinosa
Alderwoman Debbie Randall
Alderman Rufino Vega
Alderwoman Angela Pichardo
Alderman Josh Ritchey

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; Raul Garcia, Jr. (J.R.), City Engineer; Rob Flores, Director of Public Works/ Emergency Management Coordinator; and Pete Sanchez, Field Operations Supervisor.

Others present: None.

Mayor Thompson, presiding, declared the meeting open.

The sole order of business was to discuss and consider establishing a Line of Credit with Lytle State Bank in order to pay interim costs on the Water Line Project Funded by the Texas Water Development Board and to authorize the Mayor and City Secretary to provide and execute all required documents needed to establish such line of credit.

Mayor Thompson stated that this meeting was required due to the delay in funding from the Texas Water Development Board for the construction on the new water lines for the City of Devine.

City Engineer J.R. Garcia addressed City Council and informed them that Qro Mex has been on the job for four months now and have not been paid. They stated in an email that if they don't get paid, they would be pulling out at the end of this month. In talking to Robert, the President of Qro Mex, he informed City Engineer J.R. Garcia that he would never pull out. He said that if they did that, he would personally give us notice. City Engineer J.R. Garcia told Council that in his opinion they are needing a lot of money for the work that they have already done.

According to City Engineer J.R. Garcia, the Texas Water Development Board (TWDB), is being difficult and they are wanting to start the review process all over again with a new project manager that they have. We have submitted a lot of answers to their questions before, and now we're going to have to go through all that again. He said there's no telling how long that will take since they work pretty slow.

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City Engineer J.R. Garcia told Council that this is a very large project and, in his opinion, he feels that we have a good contractor, and we don't want them to walk off. If that happens, it will cost the City a lot of money in the long run because we'll need to start all over again. He told Council we were here tonight to figure out what we're going to do to ensure that the contractor stays on the job and keeps working because we don't want them to leave.

Mayor Thompson talked about the Texas Water Development Board and how they just got done with their own review. He said the Sunset Advisory Commission through the State of Texas also did a review on them. He told Council that we are not the only ones. He pointed out some things to let Council know where we are, like:

- Bid Reviews – The TWDB does not track the time it takes to complete bid document review. Bids include an agreed-upon price for labor and materials that are good for 30 to 90 days, but stakeholders (which is what we are) reported bid document review takes as long as four to six months, practically guaranteeing the bid will need to be renegotiated as material prices change with time and affect cost estimates.
- Bid Outlay Reviews – (Which is what we're dealing with right now). Once construction begins, TWDB requires contractors to submit monthly outlay reports that show the project's expenditures. Stakeholders report that outlay review currently takes up to two to four months but the agency does not track these timelines. The agency does not track how long it takes for a review or to even start reviewing the process at their level. Mayor Thompson explained they use a management tool called TxWise which lacks the ability to track a project's progression through the review process; it lacks notifications when milestones have been met; and cannot provide any meaningful project status reports.

According to Mayor Thompson, we are not the only ones, but we do need to pay them something. If we let them walk, we'll end up with a lawsuit.

City Attorney Tom Cate informed Council that he's reached out to Randy Garcia, President of Lytle State Bank. He reminded Council about another project where we had needed some money, and the bank was willing to lend us money on the project on Highway 173 for the purchase of a property. He told Council that Randy Garcia is interested in helping the City of Devine by extending the line of credit. Mr. Garcia knows that the City of Devine has good credit and is financially sound. All he is asking is that we provide him with the copy of the contract with the contractor, a copy of contract on the loan that they've already approved over the \$9 Million, and a letter from Mayor Thompson explaining the situation.

City Attorney Tom recommended to Council that they ask for the largest line of credit that we can get, just to cover ourselves.

City Engineer J.R. Garcia told Council that as of now, we owe the contractors \$634,000 plus over \$100,000 for the investigation on W. Davis Avenue.

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City Attorney Tom Cate asked Mr. Garcia about the interest rate. He explained that right now they are making about 4 ½ percent on their federal funds, but he's thinking it will be prime plus probably 2 percent. He added that the good thing is that it won't be out for very long and, hopefully, the Texas Water Development Board will turn around and give us some money.

Interim City Administrator/City Secretary Dora V. Rodriguez also pointed out that we also have the offices of U.S. State Representative Andrew Murr, U.S. Congressman Tony Gonzales and U.S. Senator Pete Flores wanting to help us. She is having to email them all the information so that they can get involved.

Interim City Administrator/City Secretary Dora V. Rodriguez also mentioned that TWDB always wanted her to email everything, but now they are wanting her to start all over and re-submit everything through a portal. She told Council, "Why didn't they tell us that from the get-go?" According to Interim City Administrator/City Secretary Dora V. Rodriguez, we have all the information, but Paula Rodriguez will still need to download everything and re-submit it to them through the portal. They are also asking to start reviewing Truin again, when Truin is already a done-deal. They want to see if everything that was approved was correct. So why did they approve for us to pay them? And, why did they release some money with UMB? According to Interim City Administrator/City Secretary Dora V. Rodriguez, the money can't be touched without TWDB giving the okay to UMB to release the funds to us to pay them.

Council held lengthy discussion.

Alderman Ritchey asked City Attorney Tom Cate what our legal standing is on recouping funds that we're losing in interest payments. According from City Attorney Tom Cate, from the State, we have none.

Discussion was held on the lending amount. City Attorney Tom Cate said he believed the top lending amount to be \$1 Million. Council discussed what amount to pay Qro Mex. Interim City Administrator/City Secretary and Mayor Thompson agreed that we need to request the full Million.

According to Interim City Administrator/City Secretary and City Attorney Tom Cate, Mr. Randy Garcia, will keep the line of credit open for the duration of the project. City Attorney Tom Cate advised that, by law, the motion needs to state that we are going to enter into this line of credit with the intention that it's going to be re-paid from current revenues.

Motion by Alderman Ritchey, seconded by Alderwoman Pichardo that the City of Devine establish a line of credit with Lytle State Bank up to an amount of One Million Dollars (\$1,000,000.00) in order to allow the City of Devine to pay interim costs on the water line project that is funded by the Water Development Board; with the intent that all payments on the line of credit shall be made from the current revenues of the City of Devine; and, that the Mayor and City Secretary are authorized to provide and execute all documents that may be reasonably required by Lytle State Bank to establish such line of credit.

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| Ayes | -- | All |
| Nays | -- | None |

Motion carried.

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

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| Ayes | -- | All |
| Nays | -- | None |

Motion carried.

Mayor

City Secretary