

Minutes
Special Meeting / Public Hearing
March 28, 2023

On this 28th day of March, 2023 at 6:05 p.m., the City Council of the City of Devine convened in a Special Meeting and Public Hearing; 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. Vernon's Texas Codes. Annotated. And the following members being present:

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

Absent being Alderman Rufino Vega; thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Tom Cate, City Attorney; Raul Garcia, J.R. (J.R.), City Engineer; Pete Sanchez, Director of Public Works and Simon Davila, Public Works.

Others Present: K. K. Calame and Anton Riecher, with Devine News; Mark McLIney, SAMCO Capital; Scooter Mangold and Roland DeLeon with Yancey Water Supply; Francis Navarro; Denise Montgomery; Ralph Montgomery; Phil Montgomery; Michelle Berdeaux; Jason Berdeaux; Jerry Beck; Maria Dominguez; Carol Moldena; Barry Graham; Aileen Montgomery; Nancy Saathoff; and Gary Saathoff, of Devine, Texas.

Mayor Thompson, presiding, declared the meeting open.

Mayor Thompson addressed everyone that he had listened at the previous meeting regarding the time limit issue. He discussed it with our City Attorney, Tom Cate, and the decision was made to use the standard city policy, voted in June 2007, to use the 5 minute rule for all speakers. This time limit will include the responses, unlike the last meeting where only the actual person asking the question was timed.

The first order of business was to discuss and take any necessary action on Resolution authorizing the submission of an application, to include the Civil Rights policies, for the 2023-2024 TxCDBG Community Development Fund competition for a water improvement project.

J.R. Garcia, City Engineer, advised that this is another process in the application for this grant. We will be using these funds for a new city water well. Dora V. Rodriguez, Interim City Administrator/City Secretary, advised the City just obtained the salary survey paperwork and it will begin with Public Works going to those addresses to obtain the information soon. City Engineer J.R. Garcia advised that the water well is our first choice for the grant.

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The second choice would be for sewer improvements. Alderman Ritchey asked why we were using this grant for a water well instead of the water storage tank. Interim City Administrator/City Secretary Dora V. Rodriguez explained this grant is for only \$500,000. There was discussion that at this time the city is running off one well (Edwards #1). The new well would be a new Carrizo well. (the old Bain Well is also a Carrizo well). The LC Martin well had a filtration issue. We used a grant to repair it and then the Winter Storm hit, and the well is no longer functional. Basically, the City needs a new well. Alderwoman Pichardo stated that she had sent an email to Interim City Administrator/City Secretary Dora V. Rodriguez regarding information from the Texas Water Development Board, about a DWSRF grant that would be available for various upgrades and such regarding water issues within a city. The person to contact would be Cathleen Jackson. Interim City Administrator/City Secretary Dora V. Rodriguez explained that the Texas Water Development Board would not allow another grant through them until our current Water Line Replacement Project was completed, per our grant writer Judy Langford. However, she will contact Cathleen Jackson to discuss this grant. Also Alderwoman Pichardo stated that the EPA was concerned about our current water samples not passing their tests. Interim City Administrator/City Secretary Dora V. Rodriguez advised that neither she nor Director of Public Works Pete Sanchez had been notified from the EPA or TCEQ of any negative tests. Mayor Thompson brought the conversation back to the agenda item topic, which was the Resolution for this TxCDBG grant for 2023-2024.

Motion made by Alderman Espinosa, seconded by Alderwoman Randall to adopt Resolution 3-23, authorizing the submission of an application, to include the Civil Rights policies, for the 2023-2024 TxCDBG Community Development Fund competition for a water improvement project.

Resolution attached as Exhibit A.

Ayes	--	Four – Aldermen Espinosa, Ritchey Alderwomen Pichardo, Randall
Nays	--	None
Absent	--	One – Alderman Vega

Motion carried.

The second order of business was to discuss and take any necessary action on Resolution authorizing the submission of an application, to include the Civil Rights policies, for the 2023-2024 TxCDBG Community Development Fund competition for a sewer improvement project.

J.R. Garcia, City Engineer stated this would be the second choice for using the grant. Alderman Ritchey inquired if we could only go for one grant. City Engineer J.R. Garcia's answer was, yes. If we had to use the grant for sewer, City Engineer J.R. Garcia advised it would be for the Rossville sewer lines.

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Motion made by Alderman Ritchey, seconded by Alderman Espinosa to adopt Resolution 3-23 A, authorizing the submission of an application, to include the Civil Rights policies, for the 2023-2024 TxCDBG Community Development Fund competition for a sewer improvement project.

Resolution attached as Exhibit B.

Ayes	--	Four – Aldermen Espinosa, Ritchey Alderwomen Pichardo, Randall
Nays	--	None
Absent	--	One – Alderman Vega

Motion carried.

The third order of business was to discuss and take any necessary action on Resolution authorizing signatories for the 2023-24 application and future grants administered through Texas Department of Agriculture TDA Go grants online.

This would give permission for the Mayor and Interim City Administrator to sign for the grant application.

Motion made by Alderman Ritchey, seconded by Angela Pichardo to adopt Resolution 3-23B, authorizing signatories for the 2023-24 application and future grants administered through Texas Department of Agriculture TDA Go grants online.

Resolution attached as Exhibit C.

Ayes	--	Four – Aldermen Espinosa, Ritchey Alderwomen Pichardo, Randall
Nays	--	None
Absent	--	One – Alderman Vega

Motion carried.

The fourth order of business was to consider and act upon granting a 10-foot easement to Yancey Water Supply on the north side of the Devine Municipal Airport, on FM 2200.

Roland DeLeon, Operating Manager with Yancey Water Supply, advised Council that they are requesting a 10-foot easement inside the Airport property from FM 762 to the school. They would be placing a 4” water line. There was discussion with Interim City Administrator/City Secretary Dora V. Rodriguez, City Attorney Tom Cate, Mayor Thompson and Council regarding that in the past, our City Engineer had recommended that if the opportunity to bring water to the Airport ever came up, that the City needed to act on it.

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At the moment, there is a very old well at the Airport, that does not have potable water and it will not assist any fire suppression. City Attorney Tom Cate suggested we negotiate the easement for a 6" water line to be placed with a tap installed so that the City could bring water to the Airport and it would support fire suppression.

Motion made by Alderwoman Randall, seconded by Alderwoman Pichardo to allow City Hall, City Attorney and the Mayor to negotiate with Yancey Water Supply for the 10-foot easement and water tap.

Ayes	--	Three – Alderman Espinosa Alderwomen Pichardo, Randall
Nays	--	One – Alderman Ritchey
Absent	--	One – Alderman Vega

Motion carried.

Discussion was held after the motion. Mr. DeLeon commented that they are on a timeline to move forward with this, and told Council that they need everything done by June, 2023.

The fifth order of business was a Public Hearing on a Bond Election as follows:

Proposition A – The issuance of not to exceed \$15,020,000 of the City of Devine, Texas General Obligation Bonds for Drainage and Flood Control Improvements and the levying of a tax in payment. (*Audiencia Pública sobre una Elección de Bonos de la siguiente manera: Propuesta A – La emisión que no exceda de \$15,020,000 en Bonos de Obligación General por parte de la Ciudad de Devine, Texas, para Mejoras de Drenaje y Control de Inundación y la imposición de un impuesto para el pago.*)

Mayor Thompson announced that he wanted to give some information from questions on the previous Public Hearing regarding the drainage issues with Burnt Boot Creek and when it all started. These were pulled from previous meeting minutes dating back from 1961:

- **02/21/1961** Burnt Book Creek drainage project discussion.
- **10/1972** South of 173, Mayor Malone requested if all letters were sent out. Mr. Wilkins asked for better drainage.
- **05/24/1985** Special meeting Texas Community Development Grant that \$250,000 be used at Burnt Boot Creek in 1977 for drainage improvements.
- **08/06/1985** Joint Training position to clean up Burnt Boot Creek.
- **03/02/1992** Drainage issue on Monticello, Mockingbird & Libold. House & garage flooding. Council voted to have City Hall work with the resident – that this drainage issue needed a little more time to be studied.
- **09/17/1996** Windy Knoll & Brown Avenue drainage issue. Brown Avenue needs to be lowered to assist in controlling the drainage.

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- **01/14/1999** Drainage and street improvements. Monticello & Libold drainage should improve and from Windy Knoll to Burnt Book Creek.
- **11/04/2008** Burnt Boot Creek Project Workshop – Engineering survey for the creek from Colonial Parkway to SH-173 was required.
- **01/20/2009** Met with FEMA regarding Burnt Boot Creek. There was discrepancy on water flow. Was remedied with FEMA.
- **02/02/2009** Planning & Zoning meeting Commissioner Lawler inquired about the Hondo to Colonial Parkway Burnt Boot Creek update. Phase 1 from Thompson to SH-173 was completed. Due to lack of funds, Phase 2 was never started.
- **07/26/2010** Planning & Zoning meeting. Flood Plains & Flood insurance rates in regards to Burnt Boot Creek.
- **12/07/2010** Hazard Mitigation for Burnt Boot Creek improvements. A plan needs to be in place before City can get grants.

At 6:32 p.m., Mayor Thompson announced that the Public Hearing was open for comments, and said they would each get 5 minutes.

Council heard comments from the following:

- Francis Navarro: How was the drainage project selected from the long list of projects? As safe water should be the first priority, why would Council not select it? She advised that Alderwoman Randall made the statement at the last meeting that the City has clean water now. Were we aware that in 2017 the City had higher level than acceptable of asbestos in the City water? The City water lines were lined with asbestos and their life expectancy had passed. Where did safe drinking water fall in the wish list for previous Councils and this Council? The community deserves a response if you are asking to bankroll such a large dollar amount for a drainage project. How will you ensure the water safety for the next 20 years when no other project can be started? Our water is significant. Alderwoman Randall responded to Ms. Navarro that, yes, the City is aware of the 2017 asbestos testing issue. She was not on Council at the time and was in the audience very concerned about our drinking water. However, that is why the City is currently working on a \$9 Million project to replace all the asbestos lined water lines in the City to guarantee the safe drinking water for the City. And just be aware that our water samples have been tested and come within the limits allowed by the EPA. Ms. Navarro stated that the City only tests for bacteria. Alderwoman Randall did advise that there is a list of items on the tests required by the EPA and TCEQ. Ms. Navarro again advised that the City is not within the allowed levels and that Interim City Administrator/City Secretary Dora V. Rodriguez admits to not knowing about it. Alderwoman Randall did say that “if” our samples are out of range, then the City has not been notified. Ms. Navarro stated that in 2017, we were outside of the allowable levels, and Alderwoman Randall advised that we test monthly. Ms. Navarro said that letters were issued then; however, she has been a resident for 30 years and has never received one; and that on her street alone, at least 13 people have been diagnosed with cancer and some have passed away. At this point the 5 minutes were up.

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Alderman Ritchey inquired if there was a way to legally allow to extend the time limit for the public to address the Council. City Attorney Tom Cate advised that the Council would need to vote for the extension. Alderman Ritchey asked if it could be done tonight and City Attorney Tom Cate stated, yes.

Motion made by Alderman Ritchey, seconded by Alderwoman Pichardo to extend the amount of time to allow citizens to speak at this public hearing, to 20 minutes or until we run out of time tonight.

Ayes	--	Two -- Alderman Ritchey Alderwoman Pichardo
Nays	--	Two -- Alderman Espinosa Alderwoman Randall
Absent	--	One -- Alderman Vega
Tie Vote	--	Mayor Thompson voted Nay to break the tie

Motion failed.

- Ralph Montgomery: Why wasn't there the pledge of allegiance at this meeting or the last Public Hearing? Mayor Thompson advised that for special meetings & public hearings there is no pledge said. At regular council meetings we do say the pledge of allegiance & have an invocation. Mr. Montgomery stated this is a council meeting and the pledge should be said. Mayor Thompson stated he would investigate past meeting minutes to see if the pledge was said at special meetings or public hearings. Mr. Montgomery then expressed that at the last meeting Mayor Thompson made statements that this project was talked about since 1968. He was at a council meeting in November 2021 regarding the flooding in his house. And with this current diagram the drainage project is going to relieve flooding on Monticello and Mockingbird. It has nothing to do with the water coming down Libold or Fox Run. Currently a cement driveway has been poured to the street and it is blocking the flow of water to Colonial Parkway. He is very upset his house is not included in this project.
- Michelle Berdeaux: She checked on the TML website and stated that the cap on tax rate is \$1.50/\$100 for population under 5,000; not \$1.00 as stated in comments previously. If we cap out at \$1.50 now, what are we going to do about our services within the city for 20 years? She is talking about paying for our police officers and city employees. If the city maxes the tax rate for this project, the city taxes for the Mayor's home would go from \$549 to \$2,009. Councilwoman Randall's taxes would go from \$671 to \$2,254. For her it would be double of that. She doesn't feel this was brought up in the discussion enough for citizens to know what it actually will do to their pocketbook. Ms. Pichardo's taxes would go from \$265 to \$972 potentially. In this economy with property taxes rising, you will be killing your businesses.

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She stated that no one will be able to afford it and they will go to Lytle. Sales tax revenue is the only thing added to city property tax for our city budget. At this level of increase you will not get businesses to come here or stay. Poteet almost died at \$1.10 and they are still at \$1.02. This is only one tax rate; there is the school & other taxing entities that will continue to rise also. You will cause an increase in foreclosures and sales and eventually not be able to pay for this bond. You need to get this information out to the property owners.

Mayor Thompson requested that the \$1.00 vs \$1.50 cap on tax rate be addressed.

Mark McLiney, SAMCO Capital, addressed this matter. General Law City has a max of \$1.50/\$100. However, for debt, the Attorney General allows only \$1.00/\$100 maximum. At this time without every detail, the estimated additional tax rate necessary for this project would be \$.44/\$100. And this is why it is going to the voters to make the decision. Alderwoman Pichardo advised that there are citizens who are not able to go to speak to the Medina County Tax Assessor-Collector in Hondo regarding their property assessment increases, and that District 2 went up over 100%.

- Barry Graham: How much does the city owe on the water line project? Mayor Thompson advised we have been paying on it for approximately 2 years now and it is a 20 year loan. Dora Rodriguez advised that the original loans were for \$7 Million at 1% interest; \$2.9 Million at 0% interest, and \$500,000 forgiveness. Mark McLiney advised currently we have an outstanding loan for 2020 for \$160,000; and 2021 for \$990,000. These two combined are covered by the existing tax rate. The Utility 2013 for \$375,000; 2018A for \$2,400,000; 2018B for \$6,240,000; and 2019 for \$675,000. General Fund loans total to \$1,150,000. Utility loans total \$9,690,000. Mr. Graham asked how far along we are on the water line project; are we completed? He was advised that we are in Phase 1, Part 2 at this time. Mayor Thompson stated the original projected timeframe was 5 years. We will not meet that at the moment. Phase 1, Part 2 should be completed by October 2023. The City will be required to submit plans for Phase 2. Mr. Graham advised that the Southside of Burnt Boot Creek is overgrown with trees and brush as there has been no maintenance for decades. Mayor Thompson wanted him to know that this maintenance will be addressed.

Alderwoman Pichardo thanked him for bringing this matter up, as she had residents come to her with the same issue. This drainage project ends at Howell and she cannot guarantee District 2 will not flood; therefore, this maintenance needs to be addressed. She also stated that there was another contractor for the water line replacement project that was fired and she was advised by the Texas Water Development Board that this cost the City a substantial amount of funds because of that. Mr. Graham asked why the contractor was terminated. Tom Cate, City Attorney, advised it was at the City's convenience as we had a difference of opinion how the project was being handled.

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- Phil Montgomery: When the contractor was cancelled, did the Council vote on that? Also he wanted to know whose idea was it for this bond? Mayor Thompson advised that back in October or November 2022, there were many items the public had been asking for that were beyond our scope to handle, not to mention that the Council shouldn't make the decision for such a large dollar project without the taxpayers weighing in on it. The best way was to bring a bond to let the residents vote if they wanted it.

Mr. Montgomery asked where the bids come from to arrive at the \$15,020,000. Mayor Thompson stated that the estimates came from our City Engineer, J.R. Garcia. Mr. Montgomery asked if the Planning & Zoning Commission or the Parks & Recreation Board were brought in on this decision/discussion. Mayor Thompson advised that the Planning & Zoning Commission is for ordinances and variances and there wasn't a Parks & Recreation Board at the time of the decision. Mr. Montgomery's last concern was if a project is started, then it needs to be completed, and we can't seem to do that. And now we are going to take on a tremendous amount of debt, not that we don't need the project, but can we afford it? He is worried that with the increased tax rate, we as a City will shrivel up and die, as businesses will not come here and many will leave. Many residents will leave if they cannot afford the tax base here. He is bothered that no one will own up to who is championing this bond.

- Francis Navarro: She had a follow up question. When the first contractor was dismissed from the water line project, how much did it actually cost the City? Mayor Thompson stated that as much as this topic needs a discussion, it isn't on this agenda. It can be discussed at another meeting that the topic is on the agenda.
- Jerry Beck: He had some questions from someone who couldn't attend the meeting. Most of the questions have been answered now. He wanted to let the Council know that by raising taxes it will also hurt our local businesses. He feels that lessening the tax burden would be better for the City.
- Nancy Saathoff: She asked the Council members if they felt they had enough time to review and decide on what project to select for the bond before Council voted. Alderman Ritchey, Alderwoman Pichardo and Alderman Espinosa stated, no, they didn't have enough time.

Alderwoman Randall stated she felt she had enough time to decide, as most of the projects had been discussed for years and she has stayed on top of most of the items herself. The next question was what will happen if maintenance isn't done on the south side of Burnt Boot Creek. Alderwoman Randall advised that a resident from District 2 had contacted her to go look at the area. She did go look and said he is correct, maintenance is required. Alderwoman Randall suggested that he contact his Councilperson to submit a work order to have the maintenance started by Public Works.

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Mrs. Saathoff said this should be considered a city-wide matter and not just a district matter. Alderwoman Randall replied that she understood; however, most of the maintenance required which the new project would not touch is in District 2.

Alderwoman Pichardo advised she had been contacted also by this resident. This resident had wanted all of Council to go see what the problem is and get it resolved. Mrs. Saathoff replied that this did answer her question. Her next question was if there was any land that can or will be developed or built upon after the project is completed? Mayor Thompson answered that, no, not as far as we know. Alderwoman Pichardo said she had an answer. There is approximately 40 acres near Colonial Parkway (golf course area) that we are looking at as a possibility. Mrs. Saathoff said there was talk that the property had flooding issues and she wasn't sure if this project would cure that.

- Gary Saathoff: He wondered if there was a copy of the original list of projects with details that he could obtain. Mayor Thompson advised, absolutely. Interim City Administrator/City Secretary Dora V. Rodriguez handed him a copy at that time. Mr. Saathoff wondered if the value to the entire community, such as the sports complex would be more valuable to more people. He wondered if any analysis was completed. Mayor Thompson stated that the analysis Mr. Saathoff is asking about for all the listed projects would not be worked up until a project is selected due the cost of doing the analysis. Alderwoman Pichardo stated that we need to help the residents that are flooded instead of projected possible flooding. She feels it is more viable to assist those that flood now instead of homes that might flood.

At 7:36 pm Mayor Thompson announced that there would be a 10 minute break at this time.

At 7:54 pm, Council re-convened.

Mayor Thompson asked if anyone else wanted to speak. There were no other attendees that wished to come forward.

At 7:55 pm, hearing no more comments from the public, Mayor Thompson closed the Public Hearing.

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

Ayes	--	Three – Alderman Espinosa Alderwomen Pichardo, Randall
Nays	--	One – Alderman Ritchey
Absent	--	One – Alderman Vega

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Motion carried.

Mayor

City Secretary