

Minutes
Special Meeting / Public Hearing
May 30, 2023

On this 30th day of May, 2023 at 6:02 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, and Vernon's Texas Codes, Annotated, and the following members being present:

Mayor Butch Cook
Aldерwoman Debbie Randall
Alderman Rufino Vega
Alderman Josh Ritchey
Alderman Michael Hernandez
Aldерwoman Stacy Pyron

Thus, constituting a quorum.

Personnel present: Dora V. Rodriguez, Interim City Administrator/City Secretary; Denise Duffy, City Accountant; Pete Sanchez, Director of Public Works; Vickie Pumphrey, Airport Manager; and Simon Davila, Public Works.

Others Present: Anton Riecher, with Devine News; Fay Murdock, Coby Pyron, Mary A. Ramirez, Briana Roberts, Cindy Rizo, Steve Rizo, Deborah Killian, Shannon Melcher, Sandra Frerich, Kathy Lawler, Jim Lawler, Sandy Lawler, Marty Lawler, and Joe Munoz.

Mayor Cook, presiding, declared the meeting open.

The first order of business was to discuss and consider recommendation from the Planning & Zoning Commission to grant a 6-month variance to William Colby & Brittany Ott for exemption of Public Restroom in the portable building located at 518 N. Teel Dr., which bears the following legal description of Devine Block 70, Lot 1 (R14827).

Alderman Ritchey asked if the address was correct. The paperwork in our packet has both 518 and 600 N. Teel Drive. There was no correct answer given to Council. Mayor Cook advised this request was originally for 1 year. The City is being told that the only people who will be in the building will be one part-time employee and the owners who will only pick up and drop off of merchandise. Mayor Cook advised that Council should follow the Planning & Zoning Commission's recommendation of 6-months variance.

Aldерwoman Randall advised that OSHA requires employers to provide all workers with sanitary and immediately-available toilet facilities (restrooms). TEXAS 295.166 Employers shall provide toilet facilities. These facilities may be either fixed (permanently located) or portable. Devine ordinances are in place for some semblance of structure and health and safety of the residents. City Attorney, Tom Cate, did supply information to Council stating that the State & Feds allow variance for temporary work locations.

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Alderwoman Randall feels this situation has no genuine appearance to be temporary. It is a portable building and we have been told that eventually a small shopping center will be built. However, to date, the City has seen no plans and heard about it for the first time at the last Planning & Zoning Commission meeting. Alderwoman Randall also advised the location is being marketed as a shop, not just pickup and delivery only. She also stated that if Council votes to allow this variance, we are opening the door for future issues. Alderwoman Pyron inquired as to what the penalties are if we do not abide by the State Law. The answer was that we do not know. The City Attorney was not present at the meeting to advise.

Alderman Ritchey stated this is the type of business Devine needs, it is just starting out and we do not want to regulate them out of business. Mayor Cook said that we want to be as conducive as possible to the businesses and especially to a small business that already has two businesses in town. Mayor Cook wanted everyone to realize that the side of town this business will be in is finally coming back. He said this can only benefit our town and the benefits far out way the necessity of a restroom. Alderwoman Pyron did say that if this was approved tonight, we could get an update in the 6-month timeframe. Mayor Cook also stated that at this time it is the expense of getting water and sewer to the building. Alderwoman Randall stated that is the cost of doing business. All the other businesses in town have that cost and approving this would open the door for the next business and then the next business. Mayor Cook stated that it could happen, although getting a new business to open is good for the City. He felt we should listen to our Planning & Zoning Commission's recommendation. Mrs. Ott was asking for one (1) year; Planning & Zoning approved 6-months to be re-addressed then. The business owners have made arrangements with the business next door to use their facilities, if needed.

Motion made by Alderman Vega, seconded by Alderwoman Pyron to grant William Colby & Brittany Ott a 6-month variance for the exemption of a public restroom, and re-address it at that time, as recommended by the Planning & Zoning Commission.

Ayes	--	Four – Aldermen Ritchey, Vega, Hernandez Alderwoman Pyron
Nays	--	One – Alderwoman Randall

Motion Carried.

The second order of business was a Public Hearing: Discuss and consider Final Report of the Planning & Zoning Commission for a Zoning Classification Change of approximately 10.619 acres of land located along the east side of the west of O'Neal Avenue in the City of Devine changing the Zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: 120 O'Neal A0069 J. Brothag Survey 15, 10.619 Acres (R2133).

At 6:16 p.m., Mayor Cook announced that the Public Hearing was open.

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Mary A. Ramirez came to the podium stating that over 20% of the land owners (8 total) are against this zoning change. She explained that at first the neighbors received no explanation as to what will happen nor anything about property values and taxes. Alderman Ritchey asked what they are opposed to. Ms. Ramirez stated at the time this began, people were afraid of what would be brought to the properties. She felt the owner should have gone to her neighbors to discuss it. There was more discussion regarding the original petition against the zoning change and not needing to do another. Alderwoman Randall asked, "Now that the property owner has advised what she wants to do with her land, are the neighboring property owners still against the zoning change?" Ms. Ramirez stated that they are still worried as to what will happen in the future and if it will hurt their own property value.

Sandy Lawler came to the podium to ask if the 20% was validated by the City, as this is the second go-around with this issue. Originally, the question to the City Attorney was whether this was clarified properly. She stated the City Attorney said he would get back to them. Neither Debbie Killian nor Sandy Lawler received anything showing this was validated. Mayor Cook stated he didn't think the petition was the issue as the Planning & Zoning Commission has approved the zone change. On this piece of property, all six members of the Commission voted to approve.

Debbie Killian came to the podium advising she is trying to build a business and make an income. It will remain a beautiful property. Mayor Cook feels this should be a different type zoning change. He suggested "H" Commercial Business District. What all land owners are saying they wish to do with their properties will fit into this zoning regulation. He read the Class H ordinance for zoning, and went over some of the businesses in Class I, and said Council could vote on Zone H instead of Zone I.

At 6:46 p.m., hearing no more comments from the public, Mayor Cook closed the Public Hearing.

The third order of business was to discuss and consider Adoption of Ordinance changing the Zoning Classification of approximately 10.619 acres of land located along the east side of the west of O'Neal Avenue in the City of Devine changing the Zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: 120 O'Neal A0069J. Brothag Survey 15, 10.619 Acres (R2133).

Alderman Ritchey liked the recommendation of changing to Class H instead of Class I. Alderwoman Pyron agreed with the recommendation to Class H. Alderwoman Randall asked if Debbie Killian was okay with this change, and she said she was okay with going to Class H and not Class I.

Motion made by Alderman Ritchey, seconded by Alderwoman Randall to Adopt an Ordinance changing the Zoning Classification of approximately 10.619 acres of land located along the east side of the west of O'Neal Avenue in the City of Devine changing the Zoning classification of this area from Class B. Single-Family Residence District to Class H. Commercial Business District which is proposed to include any or all properties described as follows: 120 O'Neal A0069J. Brothag Survey 15, 10.619 Acres (R2133).

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Ayes	--	All
Nays	--	None

Motion Carried.

The fourth order of business was a Public Hearing: Discuss and consider Final Report of the Planning & Zoning Commission for a Zoning Classification Change of approximately 2.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine changing the zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 2.0 Acres (R2114).

At 6:52 p.m., Mayor Cook announced that the Public Hearing was open.

Mary A. Ramirez advised that of the 22 neighboring property owners, there are 15 opposed to this zoning change. They are opposed to not knowing what was going to happen with the re-zoned property. Neighbors wanted nothing else going up on the land. Worried about traffic increasing and that other businesses may increase the problems. Neighbors are okay with the storage units. Mayor Cook asked if the opposing owners would also be opposed to classification H as this property in question is on a state FM highway.

This change is to correct the zone for the City at this time. Alderman Hernandez stated he had spoken to Mr. Chacon who didn't want a gas station or chemical plant but was okay with educational buildings and storage units.

Sandra Frerich stated that county records indicate this property is already commercial. For the record, storage units currently exist on the property.

Sandy Lawler stated she was okay with the "H" zone.

At 7:02 p.m., hearing no more comments from the public, Mayor Cook closed the Public Hearing.

The fifth order of business was to discuss and consider Adoption of Ordinance changing the Zoning Classification Change of approximately 2.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine changing the zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 2.0 Acres (R2114).

Motion made by Alderwoman Randall, seconded by Alderwoman Pyron to Adopt an Ordinance changing the Zoning Classification Change of approximately 2.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine, changing the zoning classification of this area from Class B. Single-Family Residence District to Class H. Commercial Business District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 2.0 Acres (R2114).

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Ayes	--	All
Nays	--	None

Motion Carried.

The sixth order of business was a Public Hearing: Discuss and consider Final Report of the Planning & Zoning Commission for a Zoning Classification Change of approximately 5.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine changing the zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 5.0 Acres (R33793).

At 7:06 p.m., Mayor Cook announced that the Public Hearing was open.

Mary A. Ramirez advised that of the 18 neighboring land owners; 12 are opposed. In the last year, the current property owner wanted to lease the land, and now they want to do an educational building and possibly more storage units. However, she is still worried about what will happen in the future.

Sandy Lawler wants the land to be something for the youth of the community. Her family started this business in 1977 and she chose to move back to Devine to continue what was started by her Grandparents. She is a teacher and coach and thinks trade schools would be great. She is not sure where all the animosity is coming from. She would be happy to answer any questions anyone has. She is okay with classification zone "H".

Steve Rizo is fine with buildings for educational purposes, just worried about additional traffic. Wants their side of town to be beautified and wants nothing crazy on the property. He does not want their side of town to be all industrial.

Briana Roberts stated she wanted to give the next generation perspective and doesn't wish their family property to be across from something harsh to look at. We need to lead with kindness. She is okay with progress; just doesn't want it in her backyard.

Sandy Lawler advised this took three months to just get the list of zones. Options were not given to them. She feels better communication is necessary. She will do her best to keep her word. She would have liked better help to get what zone was the best for all of this.

Sandra Frerich presented a map of the area in question that showed all the properties are indicated as commercial, per the county records. There just are no zones indicated. She feels the Council needs to update the zones.

Kathy Lawler stated that with all this confusion, how are all the properties being taxed? Are they paying for commercial and zoned as residential?

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At 7:34 p.m., hearing no more comments from the public, Mayor Cook closed the Public Hearing.

The seventh order of business was to discuss and consider Adoption of Ordinance changing the Zoning Classification Change of approximately 5.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine changing the zoning classification of this area from Class B. Single-Family Residence District to Class I. Light Industrial District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 5.0 Acres (R33793).

Motion made by Alderwoman Randall, seconded by Alderwoman Pyron to adopt an Ordinance changing the Zoning Classification Change of approximately 5.0 acres of land located along the east side of Ross Avenue, south side of West Webb Avenue and east of O'Neal Avenue in the City of Devine, changing the zoning classification of this area from Class B. Single-Family Residence District to Class H. Commercial District which is proposed to include any or all properties described as follows: Ross Drive & West Webb A0069 J. Brothag Survey 15, 5.0 Acres (R33793).

Ayes	--	All
Nays	--	None

Motion Carried.

At 7:39 p.m., Council took a short break.
At 7:46 p.m., Council reconvened.

The eighth order of business was to discuss and consider approving Proposal for Electrical Work for Hangar #8, 8A and 10, and amending the Current Budget.

Mayor Cook asked when the City purchased Hangars 8, 8A & 10, and did we not have an inspection? He wanted to know why an inspection wasn't requested. It was made known that the City forced the sale and no inspection was done. He wanted to know if this company, STX Electrical Contracting Services, was only company considered for the work. Pete Sanchez, Director of Public Works, advised that it was the only company that came to do an estimate. Josh Ritchey asked if we could discuss this after discussing and considering Item #10 on the agenda (the next agenda item). Mayor Cook stated he was thinking the same thing.

Motion made by Alderman Ritchey, seconded by Alderman Vega to discuss and consider Item 10 before Item 9.

Ayes	--	All
Nays	--	None

Motion Carried.

The ninth order of business (Agenda Item 10) was to discuss and consider approving Proposal submitted by Joe Munoz to Lease Hangar #10 from the City of Devine.

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Joe Munoz currently rents two hangars at the airport. He is proposing to move & lease Hangar #10 for \$1,000 - \$1,500 per month and do the repairs to the hangar at his expense. His estimate to make the repairs is approximately \$11,239 without working on the electrical. Mayor Cook stated he knows this is the largest hangar at the airport and it cost over \$800,000 to purchase. He feels \$1,000-\$1,500 is not much on the return on this investment. He went over the proposal from Joe Munoz. This leasing fee would include utilities. Mayor Cook asked Dora V. Rodriguez, Interim City Administrator/City Secretary, of the comparison fees of surrounding airports. Hangar #10 is approximately 17,000 square feet. Alderman Ritchey stated that the monthly rent would be approximately \$5,500 at \$.25 per square foot. However, that rate would be for all three hangars; not just #10 as Mr. Munoz was requesting.

Alderwoman Randall reminded Council that we have been through this at a previous meeting. There are other airports that rent as low as \$.19 per square foot. So, that would be \$3,230 per month and using \$.25 per square foot, it would be \$4,250 per month. She said that Council must remember there is no potable water available at the airport at this time. Alderman Ritchey wants to give a discount of \$500 per month on the rent over a 5 year lease. He also wanted to know if Mr. Munoz was open to giving other options; for example, a courtesy car to pilots. Mr. Munoz wanted Council to know that part of the hangar would be a lobby for pilots coming in, even if they were not his customers. Other airports have cable, Wi-Fi, TV's which Devine does not have.

Mayor Cook wanted everyone to understand he is not extremely knowledgeable on this item. He was not able to go visit the airport and he hasn't seen the hangars. The Mayor wanted to know if there was an urgency to have this settled tonight. Mr. Munoz would like to have an answer this evening, as he would like to know what he can do and what options he has. Mayor Cook stated that half the council is new and he doesn't feel comfortable making this decision just yet. He would like to be more informed. There are three weeks until next regular council meeting. Mr. Munoz needs to know sooner rather than later so he knows what and how much work he can take in.

Mr. Jim Lawler inquired why the City hasn't asked the Airport Advisory Board to look into all of this. Mayor Cook stated nothing was included in our packet about it.

Mayor Cook would like to have a special meeting on June 13th so that Council could have a workshop and discuss items of this nature. He doesn't want to rush into this without being completely informed. Alderwoman Pyron asked if Council had a dollar amount that would be fair. Alderman Hernandez stated he felt \$1,800 would be fair for the condition of the hangar today. Mayor Cook advised restaurants are paying more than that today. Alderwoman Randall advised that if we went to \$.12 per square foot, the rate would be \$2,040 and at \$.15 per square foot, it would be \$2,550. Then, if we give the discount Alderman Ritchey was talking about, it would bring us to \$1,500 to \$2,000 per month. Mayor Cook advised he would like Council to discuss this at a special meeting on June 13th. Alderwoman Randall advised she would not be in town. Alderman Vega also advised he would not be in town either; therefore, we couldn't have a special meeting. Mayor Cook wanted the Council to hold off on a decision until the June 20th regular meeting. He can't see that three weeks would make or break anything. Mayor Cook asked what length of time Mr. Munoz was thinking of for the lease. Mr. Munoz stated at least 5 years.

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Mayor Cook inquired as to why the City didn't do the repairs and lease it to Mr. Munoz in better shape, so the City could make more money. Alderwoman Randall reminded Council that how she sees it is that Mr. Munoz can make the repairs at a lesser cost than the City could. The City would have to put it out to bid and follow other stringent regulations. And, all this could take another 30 to 60 days before work would begin.

Alderwoman Randall reminded Council that we have been through this when renovating the Club House which took three years. She is looking at a win-win situation if Mr. Munoz can do the repairs. The cost would probably triple if the City did the repairs. Mayor Cook stated that we seem to have more problems than he thought. Alderman Ritchey stated that he agreed with Alderwoman Randall, unfortunately. Mayor Cook asked if the leasing opportunity had been publicized. Both Alderman Ritchey and Alderwoman Randall stated that it is not leasable in the state it is in now. Mayor Cook advised that if Mr. Munoz cannot wait for three weeks for this decision, then we can find someone else. Mayor Cook advised this has just come to Council to discuss; however, Mr. Munoz confirmed it was in April when we first began discussions. Alderwoman Pyron asked if we could even agree this evening on a dollar amount to rent the hangar. At the moment, it is between \$1,500, \$1,800 & \$2,000. Mayor Cook asked for a motion to table the item.

A motion was made by Alderman Ritchey to table this item until a Special meeting can be scheduled in two weeks. No second was made. The motion died.

Mayor Cook stated he would not entertain any more motions. Mayor Cook advised this item is tabled until next regular scheduled meeting on June 20th.

The tenth order of business (Agenda Item #9) was to discuss and consider approving Proposal for Electrical Work for Hangar #8, 8A and 10, and amending the Current Budget.

Motion was made by Alderman Ritchey to table this item until a resolution has been made for the leasing of Hangar #10. No second was made. Motion died for lack of a second.

Alderwoman Randall wanted to amend the budget and have STX Electrical Contracting complete the electrical per the proposal submitted.

The Council held discussion that this work has to be completed no matter what. Alderman Ritchey was concerned that the electrical be done with the knowledge of someone that knows what is needed in a hangar. Mayor Cook said he didn't see a problem amending the budget in anticipation of work. Alderwoman Randall stated she didn't want to amend the budget unless the City is doing the work. Alderman Ritchey asked the Airport Manager Vicki Pumphrey if the quote was informed by Airport people to make sure it meets the needs of someone who works on airplanes. She did confirm, yes.

Motion made by Alderwoman Randall, seconded by Alderman Ritchey that we amend the budget and have STX Electrical Contracting complete the electrical per the proposal submitted.

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Ayes	--	Three – Aldermen Ritchey, Hernandez Alderman Randall
Nays	--	One – Alderman Pyron
Abstain	--	One – Alderman Vega

Motion Carried.

The eleventh order was business was Informational Items.

Council discussed the following:

- Alderman Randall reported the following from the Chamber of Commerce meeting last Thursday: They have hired an Executive Secretary. Planning of Fall Festival is going well. The new WELCOME MAGAZINE - Tons of information on the history of Devine. BANNERS: Think/Shop/Dine Devine, Patriotic, School Pride, Holiday will be placed for approximately ¼ year each. Should have more information about delivery timeframe by next meeting in June.
- Alderman Randall also wanted to remind everyone of these three events:
June 3, 2023: Devine Markets – 1st Saturday Marketplace 8-3.
June 2-3, 2023: Devine Food Pantry – Rummage Sale 8-3.
June 10, 2023: DVFD will have “Touch a Truck” event.
- Alderman Ritchey wanted to ask the Devine Police Department to step up traffic enforcement again, as there are many vehicles speeding within the community.
- Alderman Ritchey also wanted City Hall to know that many people in the trades are very frustrated with the Code Compliance person. Is the City approaching the citizens that we are here to help you? Or are we handing them a list of complicated codes and all the large amount of rules to get through to obtain their permits. There are no new houses or renovations, as it is so difficult to work with the codes. Dora V. Rodriguez, Interim City Administrator/City Secretary, asked Alderman Ritchey to get together with her after the meeting.
- Alderman Pyron had one item regarding the 1st Saturday Market – that our library will be offering the annual plushy sale and a book sale during the marketplace for the Friends of the Library.

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