

Minutes  
Regular Meeting  
March 19, 2024

On this 19th day of March 2024, at 6:04 p.m., the City Council of the City of Devine convened in a Regular Meeting, the same being open 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  
Alderwoman Debbie Randall  
Alderman Flipper Vega  
Alderman Josh Ritchey  
Alderwoman Stacy Pyron  
Alderman Michael Hernandez

Thus, constituting a quorum.

Personnel Present: David L. Jordan, City Administrator; Dora V. Rodriguez, City Secretary; Denise Duffy, City Accountant; Pete Sanchez, Director of Public Works; Tom Cate, City Attorney and City Engineer Raul Garcia Jr.

Others Present: Mark McLiney & Ryan Cunningham, SAMCO Capital Market; Lauren Ferrero & RJ Ruiz, McCall, Parkhurst & Horton L.L.P; Greg Atkinson, Fire Chief; Jimmy Earnest with AEP; Roana Baswell, Maguire; Jess Swaim, Ron Richards, Brian Navarro; Jerry Beck, Phillip & Aileen Montgomery, R.D. Montgomery; Devine Texas.

Mayor Butch Cook, presiding, declared the meeting open.

Alderman Ritchey delivered the Invocation. Mayor Cook led the Pledge of Allegiance to the United States Flag and the Pledge of Allegiance to the Texas Flag.

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

No one signed up under Visitors/Citizens Forum.

The second order of business was Public Recognition.

No Public Recognition.

The third order of business was Employee Recognition.

Alderwoman Randall recognized Public Works for all their hard work. Mayor Cook agreed with Alderwoman Randall as well.

The fourth order of business was Presentation – Animal Control.

Mayor Cook informed the Council that this presentation needed to be tabled because the speaker could not make it.

The fifth order of business was the Approval of Minutes.

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Motion by Alderwoman Randall, seconded by Alderman Hernandez, to approve Special Council Meeting Minutes February 6, 2024, Regular Council Meeting Minutes February 20, 2024 and Special Meeting Minutes March 4, 2024.

Ayes	--	All
Nays	--	None

Motion carried.

At this time, the Mayor asked the Council to move Item #16 and Item #17 to the next order of business.

Motion by Alderman Ritchey, seconded by Alderman Vega to move Item #16 and Item #17 to the next order of business.

Ayes	--	All
Nays	--	None

Motion carried.

The sixth order of business was to consider and act upon the Fee Schedule for Code Compliance and the Fire Department.

City Administrator David Jordan informed the Mayor and the Council that the fees were updated for it to be easy to understand.

A lengthy discussion was held on this item.

Motion by Alderman Ritchey, seconded by Alderwoman Randall, to approve the fee schedule with the amendments of the City permit fee should be set and to make the column for the DVFD state \$.35 sq. ft. on all levels.

A question was asked about the different things on the schedule that Bureau Veritas does not inspect. Everyone agreed that if Bureau Veritas does not inspect it, then the DVFD will not inspect it as well.

Ayes	--	All
Nays	--	None

Motion carried.

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The seventh order of business was to consider and act upon amending Chapter 46 for the Code of Ordinance – Fire Prevention and Protection Sections 46-1 and 46-2 to allow Burning inside the City Limits with requirements.

Fire Chief Greg Atkinson addressed the Mayor and Council about how, right now, the ordinance reads that there is no burning inside the city limits. He advised that some things can be allotted to allow inspections for burning inside the city limits.

A discussion was held by the Mayor and the Council with Fire Chief Atkinson on the following:

- Burning permits issued locally by the Fire Department.
- No burning at Night - The City does not allow outdoor burning after daylight hours within its limits.
- No open burning of Household Garbage: The City does not allow for the open burning of household garbage. By statute, the burning of household garbage is not allowed if garbage pickup is offered by the governing body of the area in question.
- Residential Burning Only: The permits to burn within the city limits allow for small, residential burning only. Commercial Burning is not authorized by a city-issued burning permit. Commercial burning must follow strict burning regulations adopted by the Texas Commission on Environmental Quality.
- Small Burn Piles Only: In the interest of safety, only small burn piles are permitted. A 2' x 3' pile, the safety and well-being of all property and persons will be considered by the fire department.
- Agreement by Permit Holder to Extinguish: By obtaining a permit to burn, you must agree to the terms and conditions. A condition of the permit is that if a complaint is received by you, the permit holder, or the fire department, that you agree to extinguish the fire in question. You must maintain water or equipment on location to extinguish and control the fire at all times.
- All Burns must be no closer than 20 ft to a property line or neighboring structure at its closest point.
- Any size of Piles must be inspected & permitted.
- Buring in a barrel, grill, or other enclosed covered structure is permitted unless otherwise restricted by county or state law.
- Right to Revoke: The fire department, under the authority of the Fire Chief/Fire Marshal, as well as the City Administrator, reserves the right to revoke a permit to burn. If this is done, a new permit must be issued prior to any additional burning can be conducted. Typically, a representative of the administrative staff will conduct a site evaluation prior to a new permit being issued.

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The Council asked the City Attorney, Tom Cate, about the penalty clause for someone getting a permit, and Tom suggested the standard penalty of up to \$2,000 fine at the discretion of the court.

Motion by Alderman Ritchey, seconded by Alderwoman Randall, to accept amending the Ordinance as written with the amendments of all open burns must be permitted, and health and safety fines be assessed for anyone not following the regulations up to \$2,000 with no minimum and permit fee and collecting be determined by the VFD.

Ayes	--	Four (Alderman Ritchey, Alderwoman Randall, Alderman Vega and Alderwoman Pyron)
Nays	--	One (Alderman Hernandez)

Motion carried.

The eighth order of business was to consider and act upon adopting an Ordinance authorizing the issuance of the City's Combination Tax and Revenue Certificates of Obligation, Series 2024, in an amount not to exceed \$2,500,000, providing payment thereof by the Levy of an Ad Valorem Tax and further secured by a Lien of the pledged revenues of the Utility System; and other matters in connection therewith.

Mark McLiney with SAMCO addressed the Mayor and the Council about having good news. He advised as of this past week, we ended with our first bond rating in over 20 years. He advised that the city has sold all the bonds unrated, and in getting a bond rating, we are really opening up the bonds and the purchasers throughout the country. He advised that the city ended up with an A+ Rating, and this rating has to be comparable here as would it be in Connecticut, Florida, or Colorado, and so the report puts us on stage saying that the city is doing things properly. He went over the different ratings with the Mayor and the Council and informed them that this was where we wanted to be. He advised that it is like a feather in the cap, and it brought interest to the bidders that we went through today. He explained the way the rating process works is they take all your offers, take your financial information, and compile this information. after they got that, we had an hour interview with the City Administrator, David Jordan, and the rating agency, and they reviewed the city and complied information and came out with an A+.

At this time, Ryan Cunningham with SAMCO addressed the Mayor and the Council, letting them know that they went out for bids in a competitive environment and that the lowest bid came in from Raymond James and stated what this meant was that we were running conservative rates about 4.5% on this 2.5 million borrowing and where we ended up was at 3.65% which is almost a full 1% lower. He stated what does this means for the city for payments and savings. He advised that we are looking at \$148,000 less than what we ran it, and it is for 20 years.

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Mayor Cook asked that we have the total interest cost, and then we have the premium. Do we have to subtract from that? Mr. Cunningham explained that the premium is the difference between the coupons and yields, and so when we go out to place 2.5 million in the construction fund for the project, we set parameters on the sale to generate that premium that will cover the additional cost for a financial advisor, the bond counsel so that we can have 2.5 million in the construction fund for the project not less than that and this is why it is set up this way. He advised that what they do is they get the bids and tabulate the lowest interest rate wins, and based on the 2.5 million and the total amount; then we resize it so that the 2.5 million goes into the construction fund and the premium generated to cover the cost of issuance otherwise you would end up with less than 2.5 million for the project.

Mayor Cook asked if you are allowed to earn interest, and Mr. Cunningham advised yes, you are allowed to earn interest on what you have sitting in that account.

Motion by Alderman Ritchey, seconded by Alderwoman Randall, to adopt Ordinance 3-24A authorizing the issuance of the City's Combination Tax and Revenue Certificates of Obligation, Series 2024, in an amount not to exceed \$2,619,374.30 providing payment thereof by the Levy of an Ad Valorem Tax and further secured by a Lien of the pledged revenues of the Utility System; and other matters in connection therewith and award to Raymond James & Associates.

Ayes	--	All
Nays	--	None

Motion carried.

The ninth order of business was to consider and act upon adopting a Resolution Suspending the April 4, 2024, effective date of AEP Texas Inc.'s requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the Cities served by AEP Texas and authorizing intervention in AEP Texas Inc.'s requested rate change proceedings before the Commission; hiring Lloyd Gosselink Attorneys and Consulting Services to negotiate with the Company and direct any necessary litigation and appeals; requiring reimbursement of Cities' rate case expenses; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and Legal Counsel.

City Attorney Tom Cate informed the Mayor and the Council that the city has historically voted to file a contest of the rate changes. Tom advised not to implement the rate change and that cities hired Lloyd Gosselink Attorneys and Consulting Services to negotiate to get a better rate.

Jimmy Earnest with AEP addressed the Mayor and the Council. AEP wants you to deny the rate increase, and the attorneys want you to suspend it.

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Motion by Alderwoman Randall, seconded by Alderman Ritchey, to adopt Resolution 3-24B Suspending the April 4, 2024, effective date of AEP Texas Inc.'s requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the Cities served by AEP Texas and authorizing intervention in AEP Texas Inc.'s requested rate change proceedings before the Commission; hiring Lloyd Gosselink Attorneys and Consulting Services to negotiate with the Company and direct any necessary litigation and appeals; requiring reimbursement of Cities' rate case expenses; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and Legal Counsel.

Ayes	--	All
Nays	--	None

Motion carried.

The tenth order of business was to consider and act upon approving the Airport Proposal submitted by Dallas Collins for Hangar 10.

The Mayor stated he had a statement to make. He had the staff pass out a handout referencing a Facebook post by Alderwoman Randall District 5 from this past Saturday regarding this agenda item. He advised that he wanted to read it out loud for the record.

"Like Trump says, drain the swamp. It was brought to my attention, and I have confirmed with multiple sources, including the City Administrator, that a meeting took place at the airport yesterday. It is beyond disappointing and a slap in the face to all Devine citizens for city leadership to pose a meeting with individuals who have fleeced the citizens over \$850,000 barely twelve months ago because they would not bring their operations into compliance with state and city requirements. If certain individuals have that much time on their hands, then they need to be out watching Rise Internet so that way they stop hitting all of the water lines, and we don't have to deal with boil water notices. Beyond yesterday's slap in the face, it is beyond frustrating to see city leadership would entertain and advocate for 17, 000 square feet hangar for as little as \$500 a month when less than nine months ago, the Mayor himself said that a \$1,500 amount offer was unacceptable and need to be at least \$4,700 a month for that space. Think about your own space. Think about how much money you pay for rent/mortgage. Is your house 17,000 square feet? I am not sure what is going on or why certain things are advocated for even though they clearly do not line up for the best interest of the citizens/city or why individuals are being brought in conversations despite the fact that their behavior was the original issue. Nevertheless, I feel that people should know what is going on in your government. Let's keep working to make Devine great again."

Mayor Cook advised that these were the words of Alderwoman Randall, so rather than getting into craziness on Facebook, he thought it was best to read and ask my questions in person. He advised that he is very concerned with this, and he feels that there are several misrepresentations in the post, accusations based on assumptions, and half-proof, which are very misleading to those who read it, so he would like to set things straight.

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Mayor Cook asked Alderwoman Randall what meeting are you referring to? Alderwoman Randall answered that Mr. Ehlinger was having a meeting with Mr. Collins at the airport and Mr. Ehlinger is the reason that we are in a million-dollar debt and having to repair those hangars. She advised that she does not know why he was brought in at all, and she does not care that he owned it before. She advised that we went through two years of negotiations and legal battles with him, and I do not see why he was brought in. She stated that this was her personal opinion, and I was allowed to have it.

Mayor Cook advised yes, you are, even if it is incorrect, and you were way off base. Secondly, he just wanted to establish what meeting you were talking about is number one. He said that the meeting was not proposed by the City Administrator nor the Mayor, or anyone in the city, so you are way off based on that part. He let Alderwoman Randall know that the meeting was requested by Mr. Collins, and he already had the meeting lined up with Mr. Ehlinger, he asked for them to be allowed to view the hangar, and that is in the email that Mr. Jordan sent to you to confirm later that afternoon.

Alderwoman Randall read the email about the meeting, and then Mr. Jordan contacted the Airport Manager, so we knew about the meeting. why did he not say, if you want to meet, you meet off the site of the airport? Mayor Cook advised that this is very simple to understand. He said no one set up the meeting other than Mr. Collins. He advised contrary to what you went on about the \$500 dollars a month, he was proposing to invest \$100,000 of his own money, and all he knows is if I am going to invest \$100,000 in a project, I would want to hear from the previous owner too and take it toward the building. We, as the Council, gave permission to Mr. Jordan to negotiate the process with Mr. Collins at the last meeting. No one from the City was there. No one from the city participated, and yet you suggest that it was somehow secretive, under the table, and should not have happened.

Alderwoman Randall advised that this is my opinion, and I am allowed to have it. She advised that she gets what the Mayor is saying, but this was her opinion. The Mayor said that it is your opinion that the city deliberately worked with Mr. Ehlinger, whom you just mentioned.

At this point, there was a lot more back and forth between the Mayor and Alderwoman Randall about multiple sources that a meeting took place. He asked Alderwoman Randall, who were your sources? Alderwoman Randall let the Mayor know that she did not have to tell him that, but she had people at the airport calling her, and then Mr. Jordan confirmed it. The Mayor informed Alderwoman Randall that he was there at city hall when Mr. Jordan asked you if there was anything wrong. you did not answer his question, and you said thank you. He also sent you an explanation later that afternoon which the Council has in front of them.

Alderman Ritchey asked if there was a restraining order against Mr. Ehlinger, and the Mayor answered no, there was not.

After more back-and-forth between the Mayor and Alderwoman Randall about the Facebook post and city leadership, Alderwoman Randall asked City Attorney Tom Cate if she had to give her sources and answer, and he advised no.

Alderman Ritchey asked if there was a resolution, and City Attorney Tom Cate advised that he did not think there was a specific resolution about it and that it was something that happened.

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City Administrator David Jordan stated we do not have a proposal from Mr. Collins at this time. He advised the proposal he mentioned last week was that he was going to forward a conceptual design of what he planned to do. As you are aware, his original proposal was \$500 dollars a month, and he was going to invest \$100,000 of his money over the next five years or so. He was going to install a Polish lounge with restrooms and upgrade the inside of the building. He would be having his business out there. However, he does not have anything to submit to the Council tonight. He did meet with Mr. Ehlinger earlier in the week to get an idea of the whole thing and to ask questions about the water well. He advised that he has a meeting with the FAA next week regarding the requirements of selling the airport and he will be able to report that back to you. He advised that Mr. Benson with the Texas Department of Aviation and Mr. Cate would be on that call.

City Administrator David Jordan advised that he has other interested parties that he will contact and bring back to the Council.

Motion made by Alderman Ritchey, seconded by Alderwoman Pyron to table this item until next month's meeting.

Ayes	--	All
Nays	--	None

Motion carried.

The eleventh order of business was to consider and act upon authorizing the Mayor to sign the Regional Mutual Aid Agreement with the Alamo Area Council of Governments (AACOG).

City Administrator David Jordan informed the Mayor and the Council that this document updates the agreement between the City of Devine and AACOG. This is another layer to help us in the event of an emergency, and we will have additional resources.

Alderwoman Pyron, seconded by Alderman Vega, moved to authorize the Mayor to sign the Regional Mutual Aid Agreement with the Alamo Area Council of Governments (AACOG).

Ayes	--	All
Nays	--	None

Motion carried.

The twelfth order of business was to consider and act upon Awarding Engineer Services for the 2024 FIF Program.

City Administrator David Jordan informed the Mayor and the Council that there is a Drainage Bond for Burnt Book Creek as far as widening it, making it deeper, and putting the bridges in.

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He advised that we received qualifications for Engineer Services from four companies: 6S Engineering, ARDURRA, Garcia & Wright, and Fulcrum. Three city Employees rated it, with Garcia & Wright getting the highest score.

Alderman Ritchey advised that in the future if we could interview them.

Motion by Alderwoman Randall, seconded by Alderman Vega, to award the Engineering Services to Garcia & Wright for the 2024 FIF Program.

Ayes	--	Four (Alderwoman Randall, Alderman Vega, Alderwoman Pyron and Alderman Hernandez)
Nays	--	None
Abstain	--	One (Alderman Ritchey)

Motion carried.

The thirteenth order of business was to consider and act upon Awarding Administrative Services for the 2024 FIF Program.

City Administrator David Jordan went over that we only received one proposal, and that was from our current Grant Administrator, Langford & Associates.

Motion by Alderwoman Randall, seconded by Alderman Hernandez, to award Awarding Administrative Services for the 2024 FIF Program.

Ayes	--	All
Nays	--	None

Motion carried.

The fourteenth order of business was to consider and act upon nominees for the Zoning Reform Committee.

Mayor Cook advised that this is the Committee that will make recommendations to the Planning & Zoning Board.

The nominees were as follows:

District #1	Sandy Lawler
District #2	Brian Navarro
District #3	Cindy Morales
District #4	Steve Smith
District #5	Cory Thompson

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Motion by Alderman Ritchey, seconded by Alderman Hernandez to accept all nominations.

Ayes	--	All
Nays	--	None

Motion carried.

The fifteenth order of business was to consider and act upon Awarding the Electrical Bid for the Golf Course Clubhouse.

City Administrator David Jordan informed the Mayor and Council that we had a bid last week for \$10,000 from STX Electrical and you asked for us to get additional bids. Reyes Electrical submitted a bid for \$7,300. Director of Public Works Pete Sanchez advised that he has never worked with this company.

Motion by Alderman Ritchey, seconded by Alderman Vega, to award the electrical bid for the Golf Course Clubhouse to Reyes Contractors and amend the budget.

Ayes	--	All
Nays	--	None

Motion carried.

The sixteenth order of business was to consider and act upon approval of a Cyber Policy.

City Administrator David Jordan informed the Mayor and the Council that IT Tech was instrumental in formulating this policy. He advised that the city attorney also reviewed it. This is a basic cyber policy for the City and provides all the necessary safeguards.

Motion by Alderwoman Randall to accept the Cyber Policy. There was no second. Motion Failed.

Alderman Ritchey stated that in the policy, no one can do any scanning of the network without the permission of the CIL and said that what this means is that no legal team can look at our documents without the City Attorney Tom Cate; they can look at it. He stated that it needs to say Officer or City Administrator and not our IT Tech because if we do not want to know if we want an assessment done so it needs to state an Officer or the City Administrator in those situations.

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Motion by Alderman Ritchey, seconded by Alderman Vega, to approve the Cyber Policy amending showing an Officer or City Administrator to be added to allow the scanning (Page 3 4th bullet from the bottom).

Ayes	--	All
Nays	--	None

Motion carried.

The seventeenth order of business was to consider and act upon the Street Priority List.

Mayor Cook informed the Council that we got some discouraging news from our County Commissioner this week. He advised that all the equipment used by his precinct is already scheduled for their county roads, and they have everything lined up until the end of July. He advised that it is not looking good for the county to help with our roads. Mayor Cook advised that he did talk to Commissioner Lawler, and he mentioned going private.

The Mayor and Council held a discussion on this item.

Motion by Alderwoman Randall, seconded by Alderman Hernandez, to have the City Administrator go out for RFP for the streets on the lists.

Ayes	--	All
Nays	--	None

Motion carried.

The eighteenth order of business was to consider and act on the request for RFQs for the airport's Mowing Contract.

City Administrator David Jordan informed the Mayor and the Council that the contract expires in June, and he is asking for permission to send out RFQs.

Motion by Alderman Ritchey, seconded by Alderman Hernandez to request for RFQs for the Mowing Contract for the Airport.

Ayes	--	All
Nays	--	None

Motion carried.

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

City Attorney Tom Cate advised the Mayor and the Council this cost is a pass through to the customers. The City had opted in the past to stay with the default because it is lower.

Motion by Alderwoman Randall, seconded by Alderman Vega, for the City to stay at the default rate.

Ayes	--	All
Nays	--	None

Motion carried.

The twentieth order of business was to consider and act upon an Executive Session Pursuant to Section §551.071 of the Texas Government Code Consultation with an Attorney.

- a. §551.071 Consultation with Attorney – Contract on Infrastructure.

At 8:14 pm, the Council went into Executive Session.

At 8:54 pm, the Council reconvened with no action taken in executive session.

The twenty-first order of business was to reconvene in a Regular Session and Consider Action, if any, on Items discussed in the Executive Session.

Motion by Alderwoman Randall, seconded by Alderman Hernandez based on the presentation of the City Administrator, City Attorney, and Roxann Bagwell of Maguire Water, I move to authorize the City Administrator to enter into a contract with Maguire Water for the repair of the groundwater storage tank at the Bain Well according to the terms presented in Closed Session for the health and safety of the citizens of Devine and falls outside the standard competitive bidding requirements. If the groundwater storage tank should fail, the health and safety of the citizens of Devine would be in jeopardy. to have the City Administrator proceed per the discussion held in the Executive Session.

Ayes	--	All
Nays	--	None

Motion carried.

The twenty-second order of business was Informational Items.

Mayor Cook spoke with the Mayor of Lytle and they just finished with the installation of lines for Rise Internet. Mayor Gonzales had great feedback from the customers with very good performance. They had the same issues with the water lines that we are having.

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Alderman Hernandez wanted to know if the road by Walmart (Oakhill) will have any repairs. City Administrator David Jordan advised that Walmart is going to renovate and he was told they would try to get that cost into the renovation budget.

City Administrator David Jordan reminded everyone that the CASU 2nd workshop will be this Thursday at 10:30 am at the Community Center.

City Administrator David Jordan reminded everyone to take the survey for CASU and that the link was on the website.

City Administrator David Jordan reminded everyone about the Eclipse on April 8th at the Warhorse Stadium and advised that there would be some street closures.

Alderman Ritchey inquired about the Water/Sewer Rate Study. City Administrator David Jordan advised that it would be available by the end of April.

Alderwoman Randall asked about the status of the new Public Works building. Director of Public Works Pete Sanchez stated that the asbestos abatement needs to be completed before the old building can be removed.

Alderwoman Randall asked about the 2023 Sales Tax Report.

There being no further business to come before the Council, a motion was made by Alderman Vega, seconded by Alderman Hernandez, to adjourn the meeting.

Ayes	--	All
Nays	--	None

Motion carried.

  
City Secretary

  
Mayor