

MINUTES OF REGULAR MEETING

June 23, 2015

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Pro Tem Kirk Jones declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present:	Kirk Jones	Mayor
	Jon Bickford	City Council Position # 1
	John Champagne	City Council Position # 2
	T.J. Wilkerson	City Council Position # 3
	Dave McCorquodale	City Council Position # 5

Absent:	Rebecca Huss	City Council Position # 4
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Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the public hearing and regular meeting on June 9, 2015.

John Champagne made a point of clarification for the record regarding the comments that Mrs. Clover made in the minutes. Mrs. Clover commented that five years ago the City unanimously agreed to finance five bronze statues that were to be placed in the park. John Champagne said that may have been true in terms of allowing areas for the statues to be built, but the funding of this endeavor, which he said he thought was a fine endeavor, would be privately funded.

John Champagne said that he did not and will not vote for the City to fund any additional statues for this fine endeavor.

Dave McCorquodale moved to approve the minutes as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action on department reports.

- A. Administrator's Report – City Administrator, Jack Yates, presented his report to City Council. John Champagne asked whether Mr. Yates was making headway on plat reviews. Mr. Yates advised that all plat reviews were current. Mr. Yates advised that he had completed the Memorandum of Understanding with Fernland, and will be working on one for Cedar Brake Park this week. Mr. Yates thanked the City Engineers and the City Secretary for all their help.

Mr. Yates advised that he had worked with Montgomery County regarding the Baja Project, and all they did was reach a point of disagreement. Mr. Yates advised that he met with County Commissioner Mike Meador, and he said that he would be speaking with the County Attorney regarding the matter. Mr. Yates said that he also spoke with Ms. Ducharme, head of the Community Development Department and supervisor of the Baja Project. Ms. Ducharme said that the City had been involved all the way through the project. Mr. Yates advised that he spoke with Bill Kotlan, who advised him that was simply not the case.

Mr. Yates said his next step will be to write a letter to the County Judge to suggest that they either do the project correctly or they provide a track hoe and operator, and under the City Engineer's supervision, work on the project and solve the problem. John Champagne asked if the County Commissioner speaking to the County Attorney would necessitate having the City Council involved. Mr. Yates advised that would probably be the case, and he would also have the City Attorney speak to the County Attorney.

- B. Public Works Report – Mike Muckleroy, Public Works Foreman, presented his report to City Council. Mr. Muckleroy advised that the new cold fix asphalt product that TxDOT had told them about has worked really well. They have made several repairs around town. Mr. Muckleroy said that they had installed a 20 mph sign on Old Plantersville Road. Mr. Muckleroy advised that they assisted with the TCEQ inspection of the water plants, and the only thing that they noted was the fence lines needed to be cleared. They assisted the mowing contractor with that, so it did not cost the City any extra money. Mr. Muckleroy advised that they had renegotiated and lowered the uniform contract price significantly. Mr. Muckleroy said that they only had one water leak and no sewer stop ups during the month. John Champagne stated that "Patty Potty" must have had a positive effect. Mayor Jones said that he understood that the department was now fully staffed. Mr. Muckleroy advised that they had hired a new employee last Monday, and he will get him introduced to everyone.

Jon Bickford asked about the speed bumps to be installed on Old Plantersville Road. Mr. Yates said that they were finalizing the locations for the speed bumps, and they have been ordered. Mr. Yates advised that they were doing the trimming of the vegetation and installing the reflective poles. Dave McCorquodale asked to confirm that they would be asphalt speed bumps. Mr. Muckleroy advised they would be like the one that is already installed on Old Plantersville Road.

Mr. Frank Garcia, with H2O, presented his report to City Council. Mr. Garcia advised that they kept the plant in compliance even during the weather. Dave McCorquodale stated that last month they were at 3.92 and on the last report there had been a real spike. Mr. Garcia explained that the plant can meet or exceed the level they just can't average that level. Mr. Garcia said that when the ground is saturated you will see a lot more spikes, but when the ground is dry you won't see them because the water is absorbed. Mr. Garcia advised that he estimated that they had lost 453,000 gallons during a water main issue on FM1097.

Mr. Garcia advised that they had exercised the generators and they had found that the batteries at Water Well No. 2 had to be replaced, because they were not operating properly. Mr. Garcia stated that they did do the flushing for the month, and responded to some high levels during the rain events. Lone Star Parkway still had to be de-ragged a couple times. Mr. Garcia reported that they did have the TCEQ inspection and they are waiting for their response letter. Mr. Garcia advised that they are working on getting the auto dialer moved and installed. Mr. Garcia said that the Flagship meter was scheduled to go in June 29.

Mayor Jones asked how often the generators are exercised. Mr. Garcia said that they exercise them once a month for running purposes, and twice a year on a full load. Mr. Garcia said that the generator at the water plant is natural gas, and not diesel, while Water Plant No. 2 is diesel. Mr. Garcia said that they also have the diesel checked for bacteria, because if bacteria grows inside the diesel it can cause clogs.

Mr. Garcia advised City Council that their company does have an emergency response plan for water plants. Mayor Jones said that during the last hurricane the City did not have generators, and they were able to keep them running with a portable generators to go around and run each one as needed. Mayor Jones said that they got the generators through a grant and was very beneficial. John Champagne asked about the bacteria in diesel. Mr. Garcia advised that it was unrefined diesel, not like the diesel used in a vehicle, so condensation gets in the fuel and the condensation will grow bacteria.

Mr. Shackelford advised that back in January City Council had authorized the replacement of the transfer switch and the lift station generator. Mr. Shackelford stated that the transfer switch is finally in and the contractor was supposed to be installing it this week. Mr. Garcia advised that it was installed today and they would be testing it tomorrow.

Mayor Jones stated that City Council did not have a copy of Mr. Garcia's report in the agenda pack, and asked that Mr. Garcia be given a separate line item on the reports, such as water and sewer report. Mr. Yates advised that the reason the report was not included was because the meter reading was late.

- C. Police Department report – Chief of Police, James Napolitano, presented his report to City Council. Chief Napolitano introduced new Police Officer, Clayton Weikel, advising that he has six years of experience and comes from Harris County Precinct 4, where he was a canine officer. Chief Napolitano advised that Officer Weikel was going through field training to get familiar with their system, and should be operational by July 8.

Mr. Yates advised that on May 29, Officer Carswell conducted a traffic stop and they had a warrant that showed the person to be wanted for murder, and he thought that was a good job. Mr. Yates said that he also noticed that the June numbers are up dramatically from last year. Mr. Yates said that last year in May they had 119 calls and this year we had 200, a difference of 81 calls. Of those 81 calls, 74 were non-police or non-criminal matters where they were doing community policing and community relations, such as, information, alarms and assists. John Champagne stated that was outstanding. Mayor Jones said that was a good point. Jon Bickford commented that it was a good job. Chief Napolitano said that it was his staff doing a great job. City Council thanked the Department for doing such a good job.

- D. Court Department report – In the absence of Court Administrator, Rebecca Lehn, Mr. Yates presented the report to City Council. Mr. Yates advised that they continue to have heavy traffic in Court compared to last year. Mr. Yates stated that the warrants were down this month and advised that the Court Administrator would be coming to City Council with a presentation, either next month or the end of July, regarding a third person in the Court to serve as a warrant officer. Mr. Yates said that Ms. Lehn was preparing a memo to City Council detailing the need for the third person.

- E. Utility/Development report – Ashley Slaughter, Utility Clerk, presented her report to City Council. Mrs. Slaughter advised that it had been a typical month. Mayor Jones asked Mrs. Slaughter about the proposed new policy for the Community Center that was mentioned last month. Mrs. Slaughter advised that Mr. Muckleroy had been very busy and now that he is fully staffed, they are going to get together next week to redraft the application and checklist, detailing what they would be deducting for and taking that information to the City Administrator for approval.

- F. Engineer's report - Glynn Fleming, Associate Engineer, presented the report to City Council. Mr. Fleming updated Council regarding the Baja Project, and said that their hope is to come back next month with a shared proposal for a solution and an agreement that Montgomery County will provide equipment and help. Jon Bickford asked if the County had a grade-all. Mr. Fleming advised that they did have one, but due to all the flooding during the last six to eight weeks, it has made it difficult.

Mr. Fleming stated that the Stewart Creek Detention Study is reaching completion. All the field work and modeling is done, and the written study is almost complete. They are trying to further refine the cost estimate, not to just include the assessment of the construction costs but trying to give an accurate picture of long term maintenance. Mr. Fleming said that they are hoping to have that completed and delivered to the City shortly after the holiday weekend.

Mr. Fleming stated that the Water Distribution Modeling and Sanitary Sewer Modeling continue to be ongoing. Mr. Fleming also said that the Water and Sewer Rate Analysis is proceeding as well. Mayor Jones said that he assumed all the existing lines would be documented, but wanted to know if there would be a wish list, showing where the lines should go by dotted lines. Mr. Fleming stated that on the Master Plan they are making accommodations to show things that are underway and imminent.

Mr. Fleming said that as far as plats and plan reviews, Terra Vista, Section One was reviewed. Mr. Fleming said that they are in close contact with their Engineer of Record to see how to best serve that development with water service. Mr. Fleming said that there is an item on the agenda regarding Terra Vista that pertains to that information.

Mr. Fleming said the only plat review was the Buffalo Springs Shopping Center, Phase One, and noted that City Council approved the plat pending one additional review by the City Engineer. Mr. Fleming stated that they reviewed the plat, signed and returned it to the City approved. John Champagne said that if he remembered correctly, they have a date in August to get started. Mr. Fleming said originally they had a tentative date of late summer to possibly have a slab down. Mr. Fleming said that he would not presume to speak for them, but he did not think that was going to happen. Mr. Fleming stated that he had just received drawings for the civil site plan and grading, which he has not had a chance to review. Mr. Fleming said that they are moving forward. Mr. Fleming advised that their original opening date was April 2016. Mr. Fleming stated that they will be meeting with them either next week or after the holiday for a pre-development or kickoff meeting.

Mr. Fleming reported that they continue to hold conference calls with the Public Works Department. Mr. Fleming said that a couple of notable items include the ongoing issues with Lift Station No. 8 on Lone Star Parkway, which has improved in performance just slightly. Mr. Fleming stated the Public Works Foreman and Utility Operator have reached a solution to get an auto dialer at that location for alerts.

Mr. Fleming advised that the Utility Operator has been working through load tests and inspections on the generators in preparation for the hurricane season. Jon Bickford asked if Mr. Fleming was aware of any disaster plan for the City. Mayor Jones advised that the Chief of Police was the Emergency Management Services Coordinator. Chief Napolitano advised that the City did have a plan for Emergencies.

Chief Napolitano advised that he had also spoken to Brookshire Bros. and prior to the storm they would have generators delivered to their gas station so the City could fuel their equipment. Chief Napolitano stated that they either do that, or purchase a container of fuel that they would have to guard. Chief Napolitano also advised that they have set up a housing location at La Toretta for central City employees to relocate if they are out of power, so that they can keep everybody up and running in the Police Department and Public Works. Lieutenant Belmares advised that they also have a contract with MISD Transportation for fuel, which they are going to provide a copy to the City. Mr. Fleming advised that they would include emergency preparedness planning in the weekly telephone conferences.

Mr. Fleming advised that they are monitoring the progress of Phase I construction of Heritage Plaza, and they are getting ready to submit drawings for Phase II. Mr. Fleming

stated that they have been provided with a written directive regarding the City's desire for partial removal of the medians. They have not started that project yet, but they will continue to monitor the project.

Mr. Fleming advised that a meeting with the developers of The Hills of Town Creek, Sections 2 through 5, had been held yesterday with their Engineer of Record to discuss some of the issues regarding them receiving water and sanitary sewer service, which will be an ongoing discussion. Mr. Fleming stated that he would probably come back to City Council with a further update at the next meeting.

Mr. Fleming stated that yesterday they had a pre-development kickoff meeting with Pizza Shack, and he has included a Gant chart for the Pizza Shack development. Mr. Fleming said that it was a very rough timeline, and he expects them to move forward in the upcoming months. Mr. Fleming said that Mr. Simmons stated that he was still targeting late spring for opening. Mr. Fleming noted that they have a meeting with representatives from the State and Agricultural Department and the Grant Administrator to work through the nuts and bolts, and exactly how the grant is distributed.

Mr. Shackleford, City Engineer, stated that one of their concerns is there are several properties where utility easements have to be acquired. The easements on the Pizza Shack property can be obtained through the platting process, but the other ones are separate metes and bounds descriptions and acquisitions. Mr. Shackleford advised that in talking with the real estate representatives for the Rampy property, they said that sometimes acquisitions can be rather lengthy, and in some cases the acquisitions have taken a year to a year and a half to get all the signatures from the four heirs. Mr. Shackleford said the schedule shows what items need to be moved on right away so they can have utilities on the ground and available to the business prior to them opening. Jon Bickford asked if that responsibility was the City's or the developer/purchaser of the land. Mr. Shackleford stated that it was everybody's responsibility. Mr. Shackleford said that the City needed to get the descriptions prepared so that they can get them in the hands of Steve Haley so he can get them to the Rampy heirs for them to sign. Mr. Shackleford said that there are apparently some internal struggles between the family members, which should not be the City's issue, but if it delays getting the utilities installed to meet Pizza Shack's schedule, it becomes the City's issue.

Jon Bickford asked if there were some minimums on what the City would tolerate in terms of reconciliation of the easement approval. Jon Bickford stated, that to him, the people that are buying the property should have gotten this ahead of time, so it is not the City's responsibility to cause all that coordination to occur. Jon Bickford said that he did not know if it was reasonable for the City to get strapped into that responsibility. Mr. Shackleford said that it would not take long to do the ground survey and prepare the descriptions, then they hand them off after the City Attorney has reviewed the documents, who then hands them over to Mr. Haley, who gets the owners to sign. Mr. Shackleford said then at that point it will be somebody on the City's end to push to say that they need the documents. Mr. Yates said there might be a point in the schedule where they would have to go for the easements through condemnation. Jon Bickford stated that he did not want the City spending money on briefings, etc. related to easement issues with the parties. Mr. Fleming said that the City had a limited role regarding these issues.

John Champagne asked whether there was a timing element for the grant dispersion of the money contingent on them being at a certain place at a certain time in construction. Mr. Fleming advised that he would find out that information at the meeting on Thursday with the grant distributors. John Champagne said "let's not lose the grant." Mr. Shackelford advised that they had submitted a schedule to the grant distributors.

- G. Financial Report - Mrs. Cathy Branco presented her report to City Council. Mrs. Branco advised that the total funds available in cash are \$1,062,616.94, total investments are \$1,128,335.13 for a grand total of \$2,190,951.97. Mrs. Branco stated that the next debt service payment is due September 1, 2015 for \$129,600, which is already covered. Mrs. Branco stated that she went back and looked at what the adjustments at year end are going to accomplish for the city in sales tax and that comes to approximately \$1,485,000 at year end, which is \$100,000-150,000 more than anticipated. Mrs. Branco said the auditors had adjusted the sales tax, so sales tax and maintenance tax revenues are in the year that you are supposed to be collecting for. Mrs. Branco said that the franchise taxes will catch up to a sum of about \$50,000 in August, which will bring that up to the estimated budget. Mrs. Branco advised that they were working on the changes to the amended budget.

Mayor Jones confirmed that there would be a Public Hearing on the Amended Budget, and possible action at the next meeting. Mr. Yates advised that was correct. Mayor Jones asked about the schedule for Budget Workshops for the 2015-2016 Budget. Mr. Yates advised that he was working on that information and would be sending the schedule out to City Council. Jon Bickford asked if the budget had to be approved in August. Mr. Yates stated that was the City's history, but you don't have to until late September.

Jon Bickford moved to accept the Departmental Reports as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE ANNEXING THE HERINAFTER DESCRIBED TERRITORIES OF APPROXIMATELY 9.450 ACRES IN THE JOHN H. CORNER SURVEY, ABSTRACT 8, TO THE MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HERINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE.

Mr. Foerster, advised that the past month and a half, City Council has been reviewing by public hearings, the proposed annexation of three tracts of property totaling 9.450 acres of land, running from the Lone Star Parkway along the north side of SH 105, and going east to Stewart Creek Road to a point that will be the future Pizza Shack property. Mr. Foerster stated that City Council was now at a point where they can approve the annexation of the three tracts of land, along with an Annexation Service Plan that is incorporated into the Ordinance. Mr. Foerster said that he had made some modifications to the Annexation Service Plan, which has been reviewed by City staff. Mr. Foerster advised that is was his recommendation, unless there

are any questions, that City Council approve the annexation of 9.450 acres of property as described in the legal descriptions that are attached as Exhibits "A, B and C," in the Ordinance, as well as the Annexation Service Plan identified as Exhibit "D."

John Champagne moved to adopt an Ordinance annexing 9.450 acres of property, as described in the legal descriptions attached as Exhibits A, B and C, as well as the Annexation Service Plan, attached as Exhibit D. Dave McCorquodale seconded the motion.

Discussion: Dave McCorquodale asked about the Service Plan regarding the effective term, and said that he wanted to know why the ten year term was stated and whether they would not need one after ten years. Mr. Foerster advised that every time that you do an annexation of land there must be a service plan to put the public on notice as to what services the City will provide. Mr. Foerster said that every time there is an annexation, he will submit the service plan to the City staff and engineers to make sure that they are still comfortable with the projections and current state of what the City can provide to the citizens that will be annexed. Mr. Foerster said that the ten year service plan puts a limit on any changes or suggestions that would be made during that period of time. Dave McCorquodale asked if that was the reasonable amount of time that the City has to provide everything that it has said it would provide. Mr. Foerster advised if there are any utility lines, roads or anything else, which the City does not really have anything other than what they will be providing for under the Texas Capital Fund Grants, normally that needs to be done in two and a half years, and can be extended beyond that in certain circumstances. Mr. Foerster stated that with this annexation the City will be in full compliance very shortly.

Jon Bickford asked about the sanitary sewer service. Jon Bickford stated that privately owned water wells are not authorized in the City. Jon Bickford said that this property will be commercial service and asked why the City would not declare more positively that whoever develops there must connect to the City sewer, or state that septic systems will not be allowed. Mr. Foerster stated that it was already in the City Ordinances that septic systems are not allowed, and they would be subject to City Ordinances. Mr. Foerster stated that he thought that they were okay.

The motion carried unanimously. (4-0)

4. Consideration and possible action regarding adoption of the following Ordinance:
ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS AUTHORIZING THE SUSPENSION OF THE EFFECTIVE DATE FOR AN ADDITIONAL NINETY (90) DAYS BEYOND THE JULY 17, 2015, EFFECTIVE DATE PROPOSED BY ENTERGY TEXAS, INC., IN CONNECTION WITH ITS RATE INCREASE APPLICATION ENTITLED "APPLICATION OF ENTERGY TEXAS, INC. FOR AUTHORITY TO CHANGE RATES", FILED ON JUNE 12, 2015; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS, REQUIRING REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT, AND DECLARING AN EFFECTIVE DATE

Mr. Foerster advised that this Ordinance is being proposed by the Lawton Law Firm. Mr. Foerster stated that it is going to be his recommendation that City Council simply deny the rate increase proposed by Entergy tonight.

Mr. Foerster advised that every few years that Entergy makes a request for a rate increase. The process by which they do that is they have to have the approval of every city either to approve or deny the rate increase. Mr. Foerster said that in his experience over the last several years, and it is true again in this case, most of the cities in the Entergy service area will retain the services of the Lawton Law Firm. These cities will meet and discuss the rate increase and whether or not they will oppose the increase, presumably they will oppose it in its present form. Mr. Foerster said that if the City denies the rate increase, which is what he is recommending, it is automatically appealed to the PUC. Ultimately, the Steering Committee made up of the sister cities will be doing the same thing, and denying the rate increase. Mr. Foerster stated that whatever the legal fees are for the Lawton Law Firm, by PUC regulations, will be paid for by the rate payers. Entergy will have to pay the legal fees for the cities, but Entergy has the right to pass that charge on to the rate payers on a pro rata basis over a period of time. Mr. Foerster said that whether the City does anything or not, this issue will ultimately go to Austin before the PUC, where a bunch a high dollar lawyers will wrangle over the issues and make a lot of money. Mr. Foerster is recommending to adopt a one page Ordinance simply denying the rate increase, which will be sent to Entergy. Entergy will then pass the Ordinance on to the PUC for whatever legal wrangling they will be doing for the next six months to a year. Mr. Foerster said that if City Council wants to, they can join in with the other cities. Mr. Foerster said that if City Council simply denies the rate increase, they won't have to revisit the matter two months down the road, when they have to deny the rate increase anyway.

Mayor Jones said that they go through this exercise annually. John Champagne said that they have done this three or four times since he has been on City Council. Mayor Jones said that historically they have sided with the law firm and denied the rate case. Dave McCorquodale said that to him, of all the times that they have had this issue come before them, the recommendation made by Mr. Foerster seemed to have the most clarity. John Champagne agreed.

Mr. Foerster advised that City Council's action would simply be to deny the Entergy rate increase. Mr. Foerster said that they will present an Ordinance to the Mayor for his signature that will ratify or confirm the motion that is being made tonight.

Dave McCorquodale moved to deny the rate increase requested by Entergy. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY REQUIRING AN ECONOMIC AND UTILITY FEASIBILITY STUDY TO BE PERFORMED ON NEW DEVELOPMENTS WITHIN THE CITY.

Mr. Shackelford advised that when new developments come into the City and ask for utility services, especially those that or outside the City, it was very easy to require them to participate in an Economic and Utility Feasibility Study, because the City had ultimate control as to whether they would even bring service to them outside the City. Mr. Shackelford said that

they realized that there was a void in the City's ability on that issue for properties inside the City, such as Lake Creek Village, Section 2 and The Hills of Town Creek, where they went straight to the Planning and Zoning Commission with platting and variance requests. While they have a development in the City and a Planned Development Agreement for those developments. The agreement does not necessarily bind the City to provide water and sewer plant capacity without some remuneration, or without some knowledge of drainage capacity, so they realized it was time to formalize this information. Mr. Shackelford said they asked the City administrator and City Attorney how to go about this and they advised this would be the simplest way to do this immediately, and then when they codify the ordinances, they can make this a more formal process. Mr. Shackelford advised that tonight he was asking City Council to adopt the Resolution because they need the Economic and Feasibility Study so that City Council will know what capacities are being put into the water and sewer system, whether lines have to be extended, what type of economic revenues will be received based upon the type of development they are proposing, and it will be a way for the City to get information in advance of making any approvals of plats. City Council will know the information beforehand instead of after the fact. Mr. Shackelford stated that they are asking that the Resolution be adopted and that the Economic and Feasibility Study is accomplished before any action is taken by the Planning and Zoning Commission and City Council.

John Champagne moved to adopt a Resolution that will require the City of Montgomery Economic and Feasibility Study be performed before any new developments occur within the City. T.J. Wilkerson seconded the motion.

Discussion: Mayor Jones said that it was obvious when you are talking about a 200 home development or a Kroger Store, but what about a smaller development, such as a 1½ acre office building. Mr. Shackelford stated that he would think that it would apply. Mr. Shackelford used the Apache Machine Shop as an example, stating that they are locating on a piece of property that does not have a water and sewer line. While they are not far from the utilities, they still need to get to it. A lot of the study is to identify where the utilities are and the cost to bring them together. Mr. Shackelford said that if the development is single family residential, Montgomery EDC (MEDC) can't really fund those utility extensions, but the Apache Machine Shop is a different story, because they are creating jobs that both the City and the MEDC would benefit from that utility extension. If they were at the intersection of Plez Morgan and Lone Star Parkway that would be even further, and without the requirement for the Feasibility Study we would learn that information after the fact.

John Champagne asked what criteria would be used to distinguish whether a Feasibility Study would be done. Mr. Foerster stated that under the advice of the City Engineer, they had put into the Resolution in Section 1, states that the City will require the developer to fund an Economic and Feasibility Study of all proposed developments requiring the equivalent of five (5) or more single family connections in advance of any approval by the City Planning and Zoning Commission and the City Council.

Dave McCorquodale said that he appreciated seeing the traffic information, and what is important to him is changes to existing developments, such as changes to institutional schools or like the Cowboy Church, which is a large facility, and asked if there was a way to look at those developments also. Mr. Shackelford said that their thought process is not just new development, but any development on any property in the City. Mayor Jones asked if the Cowboy Church doubled in size, would they have to comply with the Study. Mr. Shackelford

said they would require more water and sewer capacity, they would impact streets and traffic patterns, so they would do the analysis. The analysis might determine that the Cowboy Church or whatever development would have to do a traffic impact analysis to indicate what improvements would be necessary to accommodate the traffic, patterns, demand and load that they will be putting on the existing infrastructure. Mr. Yates said that on a practical matter, it would come into play with platting, but also on the building permit level. Mr. Yates said that if a development came in that required a lot of traffic, it would be a trigger for him to institute this Study. Dave McCorquodale said that with this type of proactive thinking, he could not overstate how much easier this will make life for City Council. Jon Bickford said that when someone comes in and wants a bunch of variances and they find out that the variances are going to cost millions of dollars, they will know.

The motion carried unanimously. (4-0)

6. Consideration and possible action regarding the Montgomery Central Appraisal District (MCAD) Board of Directors Election for the 2016-2017 Term.

Mr. Yates presented the item to City Council, explaining this was just to confirm the name of the person to receive the notices from MCAD.

Jon Bickford moved to nominate Jack Yates, City Administrator, to continue to receive notifications from MCAD. John Champagne seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding appointment to the Montgomery County Emergency Communication District (MCECD) Board of Managers.

Mr. Yates presented the item to City Council. Mr. Yates suggested reappointing Paul Virgadomo as the representative for this year. Mr. Yates said he would work with the other City Administrators during the course of the year to perhaps try and get on the Board next year when Vicky Rudy's term is up for election.

Mr. Foerster advised that he served as the legal counsel for the MCECD Board. Mr. Foerster advised that Paul Virgadomo has been on the Board for 10-15 years, and serves as chairman of the Board and is doing a fine job.

Jon Bickford moved to nominate Paul Virgadomo as the representative for the MCECD Board of Managers. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0) John Champagne stepped out of the meeting and was not present for the vote.

8. Consideration and possible action regarding appointments to the Montgomery Economic Development Corporation Board of Directors.

Mayor Jones presented the information to City Council, stating that the MEDC Bylaws requires that two of the board members on the MEDC must be City Council members. After discussion, Jon Bickford nominated John Champagne, Jr. to serve on the MEDC Board.

Mayor Jones asked if John Champagne was willing to serve on the MEDC Board of Directors. John Champagne stated that he was willing to serve on the MEDC Board.

Mayor Jones advised that since there were no other nominations, he asked for a vote of Acclamation to elect John Champagne, Jr. to the MEDC Board of Directors. John Champagne, Jr. was elected to the MEDC Board of Directors by a vote of Acclamation.

Mr. Yates advised that there were other positions on the MEDC Board of Directors need to be reappointed. Jon Bickford asked if there were any other applicants or people interested in serving on the MEDC Board.

John Champagne moved to table this item and to send out a notice in some form or fashion that the City is seeking applicants for positions on the MEDC Board. Jon Bickford seconded the motion.

Discussion: Dave McCorquodale asked if the Bylaws staggered the terms of the Directors. Mayor Jones advised that was correct. Dave McCorquodale asked if they were just reappointing everyone because it had not been done. Mr. Yates advised that was correct, the Board members that should have been reappointed in January were not reappointed. Mayor Jones advised that the issue on hand was to possibly reappoint Kirk Jones, Russell Skinner, Bob Kerr and Julia Wall.

The motion carried unanimously. (4-0)

9. Consideration and possible action regarding an application for Historic Site Exemption for M B Steger Home at 709 College Street, Montgomery, Texas.

Mr. Foerster advised that this site was designated in 1978 as a Texas historical landmark. Mr. Foerster advised that he is not familiar with the City's policy on whether they provide an exemption for a historical site. Mayor Jones said that the City has no policy regarding this matter. Mr. Foerster said that to his knowledge none of the cities in Montgomery County have a policy regarding this matter.

Mayor Jones advised that the last time that this came up was for him, he owned a historic property and he was going to go through this process. Mayor Jones stated that he had brought his request to City Council and they tabled action on the matter and said that they needed to adopt a policy, which they never did. Mayor Jones said that as long as he has been here the City has not approved this exemption. Jon Bickford asked if anyone in the City receives a tax exemption for historic property in the City. No one was aware of that information.

Mr. Foerster advised that if the City wants to do this type of exemption, they need to develop a policy, if this appeals to City Council and the citizens. Mr. Foerster said that there are a lot of historical structures in the City. The City would be looking at some significant tax breaks to a lot of property owners. Mr. Foerster said that the reason this exemption was done, was to allow cities to recognize the importance of the historical structures and to give incentives to persons that do not own them to buy them with the idea of spending some money to improve the properties, with particular guidelines. Mr. Foerster said that as Chairman of the Historical Committee for Montgomery County, he sees the value in doing this for some cities in trying to

get a historical district for the downtown region of Conroe, Magnolia, and Willis is another area. He did not think there was another city with more historical significant structures than this city.

Jon Bickford asked if the City were to grant a historical exemption, what exactly is being granted, because we get a piece of the ad valorem tax. Mayor Jones said that you give up the City's portion of the ad valorem tax. Mayor Jones said that you can petition all the taxing entities within the County for the same exemption.

Jon Bickford said that with all they know and with respect to the property owners, he moved to deny this request for Historic Site Exemption because the City has no policy, and the policy is no.

Mr. Foerster advised that he agreed with City Council Member Bickford regarding the policy. Jon Bickford said that they also need to understand the financial aspects of this exemption, because if you grant one exemption, you will be granting them all. Jon Bickford said that he would like to know how much money is involved in the exemption, and he would also like to have a say as to what is done with the money, such as listing what they expect to be done to the property.

Dave McCorquodale seconded the motion.

Discussion: Dave McCorquodale stated that Mr. Foerster did not know of any other cities that had a policy, but asked if he knew of any type of site that had that exemption. Mr. Foerster said that he suspected that there are other cities that have granted those exemptions, but he doubted that anyone had a full exemption. Mr. Foerster said that he did not think that any city would just grant the exemption carte blanche. Dave McCorquodale asked if Mr. Foerster knew of any exemptions in Montgomery County. Mr. Foerster said that he did not know of any. Mr. Yates said that he could probably go on the internet and in a couple of hours he could find a city with a policy that we could use as an example. Mr. Foerster said that he thought that the City of Grapevine, Texas might have a policy because they do have a historical district and architectural guidelines. Mr. Foerster said that the cities of Beaumont and Nacogdoches, because of Stephen F. Austin, has worked with them on doing some things to preserve some homes. Mr. Foerster said that it will probably be the larger cities and not the smaller ones that have policies.

The motion carried unanimously. (4-0)

10. Consideration and possible action regarding City participation on Terra Vista Subdivision upgrading to a 12 inch water line.

Mr. Fleming stated that the current disposition of this item is resulting from a meeting that was held late yesterday with the project engineer, developer and the City Administrator. Mr. Fleming advised that the information did not make it into the agenda pack. Mr. Fleming advised that he has prepared a two page exhibit. Mr. Fleming described an area detailed on the map and circled in red, which is a portion of the Waterstone development. Mr. Fleming stated that the second page is a section of their construction drawings and a preliminary site map.

Mr. Fleming advised that there are two particular items in Chapter 90 of the Code of Ordinances that deal with utilities. The first mandates that if a developer intends to extend an existing waterline that services their development, he is bound to extend it across the full platted boundary of said development. Mr. Fleming stated that in this case it would take it from the existing termination of the waterline, on the west side of Atkins Creek roughly across FM 1097 from the business park, and extend all the way east to the current City limits. Mayor Jones asked if he was going to finish the triangle. Mr. Fleming said yes, so to speak.

The second item of interest in the Code provides that if his development requires a lesser line size than what the City mandates, then the City, at their discretion, can opt to pay the difference to upsize the line. Mr. Fleming stated in this case, the development needs an 8 inch line to serve his development. Jon Bickford asked who determined that information. Mr. Fleming stated it was the Engineer of Record. Mr. Fleming asked to verify the information, so they provided the modeling, which they verified and approved. Mr. Fleming stated, in their opinion, that the best thing for the City to do to (1) facilitate future growth, and to (2) allow the water line to be looped in the future, they would recommend that it is worth consideration to up the size of the waterline from an 8 inch line to a 12 inch line.

Jon Bickford asked about the size of the lines on FM 1097. Mr. Fleming advised that the lines on the interior of the Waterstone development are proposed to be 8 inch. Mr. Shackelford advised that per the City's Code there are certain roads in the City that are considered major thoroughfares, FM 1097 being one, which are required to have a minimum of a 12 inch line along said thoroughfares. Mr. Fleming stated that the developer is only required to put the size line that their development requires, which is an 8 inch line.

Mr. Shackelford stated that the reason that they need to upsize from an 8 inch line to a 12 inch line is because the Code requires a 12 inch line. Mr. Bickford asked if the Code requires a 12 inch line, then why was the developer not required to put in a 12 inch line. Mr. Shackelford stated that they agreed that a 12 inch line needs to be installed, because of the conflict in the wording in the Code. John Champagne asked whether the Code stated "at the discretion of the City" somewhere. Mr. Fleming advised that he has gone through the Code extensively. Jon Bickford asked whether the 12 inch lines that are shown on the map are existing. Mr. Fleming said that everything on the map is existing and in the ground. Jon Bickford asked to confirm that the question is whether or not the City wants to participate in paying for upsizing the waterline. Mr. Fleming advised that line that they are wanting to upsize is approximately 1,300 linear feet in length.

Mr. Fleming stated that there were two reasons to connect the loop. They have every reason to believe that the 90-100 acres on the map will come into play in the near future. Whether they pursue water and sewer service as an out of City customer or they seek annexation is unknown, but they are within the City's ETJ.

Second, a portion of the Waterstone development has a future section, and they would like to have the opportunity to provide a loop system for the entirety of the western side. Mayor Jones asked what the City's cost would be to participate. Mr. Fleming stated that they estimated the City's cost to be \$30 - \$35 per linear foot, approximately \$30,000 to \$35,000. Mr. Shackelford stated they would prepare their documents to price for both the 8 and 12 inch lines showing the true cost differential. Mr. Fleming stated that part of the discussion that they had yesterday was they would have two separate items bid, with the 8 inch price and the 12 inch price, which

would eliminate any speculation of price. Jon Bickford asked how soon they would get the data back from the bids. John Champagne said that he got \$50,000. Mr. Fleming said it would be a little less than that. Jon Bickford asked if they could express their interest and say they can't make a decision until they know what the data is. Mr. Fleming said if the City did not act and allow them to place the 8 inch line all the way down FM 1097, they would need to come and get a variance request. Mayor Jones stated that there is a likely benefit for future development with this action. Mr. Fleming said that was correct. Mayor Jones asked when the City would have to provide the funds. Mr. Fleming said that construction would probably begin in early fall. Mayor Jones asked if the decision could wait until the next meeting. Mr. Shackelford stated if the City agrees to this, they would have to publicly bid the project.

Dave McCorquodale said the 90-100 acre tract would go through the same feasibility study, and asked whether it would also fall under the pro rata share agreement. Jon Bickford asked if that was officially in place. Mr. Shackelford stated that would be part of the Joint Meeting with the Planning and Zoning Commission. Jon Bickford said he wanted to make sure the items get covered during the joint meeting with the Planning and Zoning Commission include fees paid for city assets. Mayor Jones asked whether this needed to be decided tonight. Mr. Shackelford advised that was what they had been let to believe. Mr. Fleming stated either way, with an 8 inch or 12 inch lines, they will approve their drawings. At such a time when the project bids and they are ready for construction, the bids could be brought back to City Council for review. City Council can make a determination at that time as to whether they chose to participate.

Jon Bickford said he felt they should defer making a decision until they have some financial data. Mr. Shackelford said based on what they know, they are bidding 8 and 12 inch lines, with the valves, fittings and the T's. Jon Bickford confirmed that the City would only be paying for the difference in the cost between the 8 inch and 12 inch. Mr. Fleming advised it would be strictly for the cost difference between the 8 inch and 12 inch line for the upsizing. Mr. Shackelford said they estimate roughly \$50 per linear foot for a 12 inch waterline, with everything included. John Champagne stated one third of that cost would be the City's portion. Mr. Shackelford said that would put the City in the \$15-\$20 per linear foot price range. Mayor Jones said that did not sound bad and made it easier to vote yes right now. Mr. Shackelford said that they told City Council \$30 to \$35 not to exceed costs. Jon Bickford said that the costs should not exceed \$15 per linear foot. Mr. Shackelford said that they could authorize an amount not to exceed \$30,000. Jon Bickford asked where they are going to pull the funds from. Mayor Jones said that this project goes beyond Summit, so there is a chance for commercial development down FM 1097 and residential in the interior.

John Champagne moved to authorize the City participation on Terra Vista Subdivision upgrading to a 12 inch water line for a cost of up to \$17.50 per linear foot for 1,300 linear feet, for an amount not to exceed \$22,750. Dave McCorquodale seconded the motion.

Discussion: Dave McCorquodale commented on the contradictions in the language of the Code, and asked to clarify that information as quickly as possible. Mayor Jones said there have been some other inconsistencies that they have found.

The motion carried unanimously. (4-0)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas. (No current items at this time.)

COUNCIL INQUIRY:

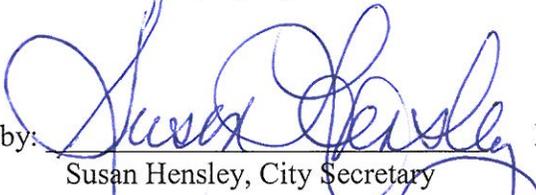
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

Jon Bickford asked if the City should correct its Ordinance to say if you want to pull water through, they have to use a 12 inch pipe and be done with this matter. Mr. Shackleford advised they are going to have to work with City Council to go through the information and work out the inconsistencies. Jon Bickford asked if they are allowed to change pipe size on a project. Mr. Shackleford advised that would be difficult. Jon Bickford asked if they needed to make it an agenda item. Mr. Foerster stated if they are going to discuss and take action, they would need to put it on the agenda.

Mr. Fleming advised they have compiled a lengthy list of inconsistencies, and they are hoping to discuss them at a Joint Workshop in July or August at the latest. Mr. Shackleford said part of the reason they want to bring in the Planning and Zoning Commission in is to discuss where you all would consider variances, lot sizes, etc. and work through all the items. Dave McCorquodale stated items with financial impact should be moved up to the top of the list, because they should not need the Planning and Zoning Commission, just like the waterline size.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:52 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Submitted by: 
Susan Hensley, City Secretary

Date Approved: 07/14/2015





Mayor Kirk Jones