MINUTES OF PUBLIC HEARING and REGULAR MEETING

July 14, 2015

MONTGOMERY CITY COUNCIL

CALL TO ORDER

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

Present:	Kirk Jones	Mayor
	Jon Bickford	Position # 1
	John Champagne	Position # 2
	T.J. Wilkerson	Position # 3
	Rebecca Huss	Position # 4
	Dave McCorquodale	Position # 5

Absent:

Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing:

Mayor Jones convened the Public Hearing at 6:01 p.m.

1. Public Hearing for the purpose of hearing public comments regarding proposed amendments to the 2014-2015 City of Montgomery Operating Budget.

   Mr. Yates advised that three weeks ago City Council had met and proposed several amendments to the 2014-2015 City Budget. All of those amendments resulted in a surplus of $71,000 in the general fund. City Council instructed Mr. Yates to move the $71,000 surplus funds into drainage improvements. Mr. Yates stated that after the revisions there would also be $14,000 in the utility fund.

   No public comments were made. Mayor Jones adjourned the Public Hearing at 6:02 p.m.

Reconvene into Regular Session:

Mayor Jones reconvened into Regular Session at 6:02 p.m.

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.

There were no comments made.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Budget Workshop and Special Meeting held on June 11, 2015, and Regular Meeting held on June 23, 2015.

   Dave McCorquodale advised that he was not present at the Budget Workshop Meeting held on June 11, 2015, which needed to be corrected in the minutes.

   Jon Bickford moved to accept the minutes as amended. John Champagne seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action to amend the 2014-2015 City of Montgomery Operating Budget.

   John Champagne moved to accept the 2014-2015 Budget Amendments as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding an Eagle Scout Project at Memory Park concerning the entrance stairs.

   Mayor Jones introduced Eagle Scout Mason Ganahl, Boy Scout Troop 491. Mason Ganahl presented his information regarding a proposed project at Memory Park. Mason advised that there is a hill located by the parking lot that is becoming a make shift trail. Mason stated that he was going to be building an official path and staircase up the hill. The staircase will be constructed with 6' x 6' timbers, and the pathway will be crushed granite.

   Mason said pending all approvals, they expected to complete the project by the end of August. Mason advised that the City should not have to pay any maintenance for the stairs. There will be no water or electricity lines running under the staircase, and it will be safely built. Mason stated that the Rotary Club has already seen the project and approved it, and he is just needing approval by City Council.

   Mayor Jones asked how the project would be funded. Mason advised that he is sending out letters to friends, family and different stores requesting donations. Mason said that Jim's Hardware, which is where they will be purchasing the lumber, has stated that they will likely be donating lumber for the project. Mason said the Rotary Club had already

come forward and donated all of the crushed granite that they will need for the stairs and pathway. Mason said he felt they should be able to get the rest of the funds fairly easily from donations.

John Champagne asked if Mason was going to be doing this project by himself. Mason advised that his Boy Scout Troop 491, along with friends and the families of the Troop will be helping construct the stairs. Mason stated that they would be having four workdays, one to clear out brush from the area, two days to complete the staircase and pathway, and the fourth day to install the handrail. John Champagne asked if Mason would be the project manager and delegate the work. Mason advised that was correct.

John Champagne stated this was one of the finest presentations he has ever sat through. Mayor Jones said that this was a well needed project for Memory Park.

Dave McCorquodale asked about the grade of the staircase, and how far it was expected to be above the existing grade. Mason advised that they would be cutting into the hill, so the staircase should go in and there should be little risk of falling off the side of the staircase. Mason stated that the stairs are six feet wide, with eighteen inch treads, and they are very steady. John Champagne thanked Mason Ganahl very much for his presentation.

Rebecca Huss moved to approve and Eagle Scout Project at Memory Park concerning the entrance stairs, as presented by Eagle Scout Mason Ganahl. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Mayor Jones stated that they would be looking forward to the finished project. Jon Bickford commented that this was a very good presentation and project.

5. Consideration and possible action regarding Certificate of Occupancy on Change of Users as required by the International Building Code.

Mr. Yates advised that the Building Code requires an inspection whenever there is a change in occupancy or use, and he was looking for clarification from City Council on whether they want the inspections for a change in use or change in occupancy. Mr. Yates advised that a change in use would mean a different type of use, such as a clothing store changing to a restaurant. The Building Code is very clear about a change of use and requiring an inspection.

Mr. Yates said that there was a question regarding a change of occupancy, such as when a store goes from one clothing store to another clothing store, then there would only be a change of the owner. Mr. Yates said that the question would be whether City Council would want to require a certificate of occupancy inspection for a change of occupancy.

Rebecca Huss said she wondered how many of the items inspected would be portable, such as fire extinguishers, in addition to the lighted signs. Mr. Yates said the way that the Building Inspector is handling this matter is only fire and life safety issues are inspected.

Dave McCorquodale asked if they did electrical inspections. Mr. Yates said that was not required, unless it they had installed new wiring. Mr. Yates advised that the fee for the

inspection could be as low as $75 if they pass the inspection the first time, but if they require a second inspection, it could be $150.

Jon Bickford stated they could have a clothing store in business for thirty years, and then change ownership. Jon Bickford said from a safety standpoint, if that is what they are looking at, it sounds like the safest thing would be to inspect any time there is a change. It would give the City the opportunity to inspect the emergency and life safety related gear.

John Champagne asked the City Attorney if this line of thinking paralleled what he was accustomed to. Mr. Foerster advised that there are a lot of cities that do the same thing, and his answer was yes.

Dave McCorquodale advised that he offices out of Oak Ridge North, and they are required annually to be inspected for a Certificate of Occupancy. Dave McCorquodale advised that they will flag them if the light to the "exit" sign is out, or if there is a missing "exit" sign.

Mr. Yates stated that one of the things that they could improve would be to inform the public about this requirement. Mr. Yates said that he could put together a paragraph for Ashley to hand out at the front counter, explaining what people will need to do, and why it needs to be done.

Mayor Jones said the reason that this item is on the agenda is because they have had several issues where people have come to him asking what the City is doing to them. We surprised them, because before they were not enforcing the matter and now they are, so giving fair warning is a must.

Mayor Jones advised that the other matter is that a lot of the people are renters and someone else owns the building, so if the City requires the building to be fixed, he thought the owner should get involved. Dave McCorquodale said that is usually covered in the lease agreement, and at his office they pay for anything that has to be done.

John Champagne asked the City Attorney if there was a shared responsibility between the renter and the owner. Mr. Foerster said that if someone was injured on the property, both the owner and the tenant would be responsible.

Mayor Jones advised that another item of concern, is if the occupant does not pass the inspection for a minor issue, it might take the inspector two more days to get back around to do the inspection. Mayor Jones said that was a lot of lost time, which is a problem.

Dave McCorquodale said that if they have to have an exit light repaired, then they will have to call an electrician. Jon Bickford said that builders work through those inspections all the time. John Champagne said that they should not have to wait on the City after the work is done.

Mayor Jones asked if they take care of the minor issue, would there be a way that someone from the City could verify that the work is done. Mr. Yates said that he could work together with the inspector. Mayor Jones asked Mr. Yates to make sure and communicate what the program is now, because it was not done that way in the past. Jon Bickford stated that if Mr. Yates is not the official inspector, he should not be doing the inspections, and asked if

there would be a liability with that being done by the City Administrator. Jon Bickford stated that if someone says that they are going to put an exit sign over an exit, and they either don't do it or do it wrong, and something happens, they will say that the City Administrator just inspected the location. Mr. Yates agreed. Jon Bickford said that the only reason for the exit sign to be there is in the case of an emergency, and it needs to be according to Code.

John Champagne said a good rule of thumb is if the building has been dealt with appropriately, and they are wanting a final inspection, which should be on high priority, and if we are not giving that type of customer service to the people, we are not doing our job. John Champagne said that the City did not need to be holding up people. Mr. Yates said the worst case scenario would be a wait of two days. John Champagne said, in his mind, that is two days too long. Jon Bickford stated that is assuming that the inspector does not have anyone else on the schedule, because he does other cities. John Champagne said that he did not know the inspectors availability. Mr. Foerster advised that he inspects for other cities as well as Montgomery, and he is from Huntsville. Mr. Yates said that the inspector will often stop by on his way back and forth from other cities to do inspections.

John Champagne said that communicating to the people involved and giving notice of when the inspections can be scheduled needed to be done, because we do not want to hold these people up, and asked that the City be proactive.

Jon Bickford moved that inspections need to occur upon change of occupancy. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding Ms. Horton's Request to Speak to City Council regarding the Certificate of Occupancy and Return of Utility Deposit.

Mrs. Horton was not present at the meeting. No action was taken.

7. Consideration and possible action regarding appointments to the Montgomery Economic Development Corporation.

Mayor Jones advised that there are four positions on the Montgomery Economic Development Corporation (MEDC) Board of Directors up for appointment. Mayor Jones stated that Council has requested that they look at some additional applications for possible appointment to the MEDC Board of Directors.

Mayor Jones stated that they would act on each position which is up for appointment separately. Mayor Jones said that they will treat this action as an election, because they have so many applications. Mayor Jones advised that the positions are numbered, but they don't have the numbers, so they will take action on each person up for appointment.

- Mayor Jones announced that the position held by Bob Kerr was up for renewal and asked for any nominations. Mayor Jones added that Bob Kerr had submitted an application for the MEDC Board of Directors.

Rebecca Huss said that it made sense to have new blood come in even though all of the Board members are willing to be reappointed. Mayor Jones stated that two of the four members have not shown interest in serving, which are Julia Wall and Russell Skinner.

Mayor Jones advised that the MEDC Bylaws state that two of the seven Board members are required to be on City Council, and up to three members can reside outside the City limits but within the County.

John Champagne nominated Bob Kerr to fill his positon on the MEDC again.

No other nominations were made.

Bob Kerr was elected to serve on the MEDC by a vote of acclamation.

- Mayor Jones announced that the position held by Julia Wall was up for election. Mayor Jones advised that Julia Wall had not submitted an application to serve on the MEDC.

  Jon Bickford nominated Andy Dill to fill the position held by Julia Wall.

  No other nominations were made.

  Andy Dill was elected to serve on the MEDC by a vote of acclamation.

- Mayor Jones advised that the position that he currently holds on the MEDC Board is up for election, and will be required to be filled by someone on City Council.

  Dave McCorquodale nominated Kirk Jones to fill the position held by Kirk Jones. No other nominations were made.

  Kirk Jones was elected to serve on the MEDC by a vote of acclamation.

- Mayor Jones announced that the position held by Russell Skinner was up for election. Mayor Jones stated that Russell Skinner had not submitted an application to serve on the MEDC.

  Rebecca Huss stated that she would like to see either Randy Moravec or Carol Langley in that position, because one has a lot of finance experience and long term history, and Carol has long term history with the City and a valuable position as well. Rebecca Huss said that they were two different kinds of experience.

  Dave McCorquodale said that he could appreciate a lot of the strengths that these people bring and he is thrilled with the number of qualified applicants. Jon Bickford said that it was good to get some fresh input and feedback into the group.

Dave McCorquodale said that he knew Mr. Gareth Westlake and had worked with him on several things, and he liked the thought process that he brings to things. Dave McCorquodale said that it was a tough decision to make.

Jon Bickford nominated Randy Moravec.
J.T. Wilkerson nominated Carol Langley
Dave McCorquodale nominated Gareth Westlake

Mayor Jones called for a vote for the following nominations, and the following votes were received:

Carol Langley received two votes by Rebecca Huss and J.T. Wilkerson
Randy Moravec received two votes by Jon Bickford and John Champagne
Gareth Westlake received one vote by Dave McCorquodale

Mayor Jones advised that there would be a run off between the following two candidates:

Randy Moravec and Carol Langley

Mayor Jones called for a vote, and the following votes were received:

Randy Moravec received three votes by John Champagne, Jon Bickford and Dave McCorquodale.

Carol Langley received two votes by Rebecca Huss and J.T. Wilkerson.

Randy Moravec was elected to serve on the MEDC Board of Directors.

8. Consideration and possible action regarding awarding a contract for Grant Administration Services for the 2015 Texas Capital Fund - Kroger Grant.

Mr. Yates advised that only one company had submitted a proposal in response to the public notice, which was Public Management, Inc.

Jon Bickford moved to award the contract for Grant Administration Services for the 2015 Texas Capital Fund – Kroger Grant to Public Management, Inc. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding awarding a contract for Grant Administration Services for the 2015 Texas Capital Fund - Pizza Shack Grant.

Mr. Yates advised that only one company had submitted a proposal in response to the public notice, which was Public Management, Inc.

Jon Bickford moved to award the contract for Grant Administration Services for the 2015 Texas Capital Fund – Pizza Shack Grant to Public Management, Inc. John Champagne seconded the motion, the motion carried unanimously. (5-0)

10. Consideration and possible action regarding awarding a contract for Grant Engineering Services for the 2015 Texas Capital Fund - Kroger Grant.

Mr. Yates advised that three companies responded to the public notice, and upon review of the submittals by himself and Mayor Jones, they made the recommendation to select Jones and Carter as the Engineers for the project.

Jon Bickford asked for clarification that City Council had received the reviews of the proposals and not the actual proposals submitted. Mr. Yates said that was correct.

Rebecca Huss moved to award the contract for Grant Engineering Services for the 2015 Texas Capital Fund – Kroger Grant to Jones and Carter. Dave McCorquodale seconded the motion.

Discussion: Mr. Ed Shackleford, City Engineer, said that there was a slight dilemma, on Milestone's part. Their engineer has already prepared plans for off-site utilities, which have been submitted for review. Mr. Shackleford stated that the firm that prepared the plans did not respond to the RFQ. Mr. Shackleford advised that if the contract is awarded to Jones and Carter, then they would have prepared drawings at an expense that is solely Milestone's. Mayor Jones said that was a dilemma. Jon Bickford stated that the City had to follow the law.

Rebecca Huss said that it is not in the City's best interest to have the company that is benefiting from the utilities to be the gatekeeper to the decision making. Mr. Shackleford said that they would still review the plans, if Council allows the plans to stand, on behalf of the City.

John Champagne asked Mr. Foerster for his thoughts. Mr. Foerster advised that the engineering firm had not submitted an RFQ, and he assumed they had received notice. Mr. Shackleford confirmed that they had received notice of the RFQ via email. Mr. Foerster asked if there was any knowledge as to why they chose not to respond. Mr. Shackleford stated that he had not called them to inquire why they did not submit an RFQ.

Mayor Jones asked if there was a way to transfer the work over and for compensation. Mr. Shackleford said that they could sub the work to the firm. Mr. Shackleford said that he felt obligated to advise Council of this matter. Mr. Foerster asked if they could do that ethically. Mr. Shackleford said that it might create an appearance of a conflict in subbing the work to them, and then reviewing their work. Rebecca Huss stated that with most conflict of interest statements, they make the comment that they accept the conflict, and then they go on. Rebecca Huss said that she would not require them to sub the work. Mr. Foerster stated that the company would be compensated by Milestone. Mr. Shackleford said that they did not know that. Mr. Shackleford said that it gets down to it being an error by Milestone.

Mr. Foerster stated that he felt that they had to follow the requirements that are set out in the RFQ, and frankly he would rather this contract be with Jones and Carter, as obviously City Council feels that Jones and Carter are in a good position to carry the project on, and

time is important to the project. Mr. Foerster said that they needed to go back to the engineering firm and if they have any issues, they can have them contact him.

John Champagne asked if there was documentation that they were contacted regarding the RFQ. Mr. Shackelford advised that there is an email with the person from that firm addressed on the email. Jon Bickford said that they knew an email went to them, but they don't know if that person got the email. Mr. Shackleford said that was correct. John Champagne asked if there was a second attempt made for anyone. Mr. Shackleford said to his knowledge there was not a second attempt made. John Champagne said that he just wanted to confirm that everyone was treated fairly. Jon Bickford asked to confirm that the email sent was regarding the RFQ and all the information. Mr. Shackleford said that was correct.

Mayor Jones said that there was a motion to award to Jones and Carter. Rebecca Huss said that would be with no strings attached. John Champagne stated there would be no investigation.

The motion carried unanimously. (5-0)

11. Consideration and possible action regarding awarding a contract for Grant Engineering Services for the 2015 Texas Capital Fund - Pizza Shack Grant.

    Mr. Yates advised that here had only been one submittal for the RFQ by Jones and Carter.

    Jon Bickford moved to award the contract for Grant Engineering Services for the 2015 Texas Capital Fund – Pizza Shack Grant to Jones and Carter. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding adoption of the following Resolution: RESOLUTION APPROVING THE MONTGOMERY COUNTY EMERGENCY COMMUNICATION DISTRICT BUDGET FOR FISCAL YEAR 2016.

    Mr. Yates advised that this is an annual requirement for the participants to adopt the budget. Mr. Yates said that it appeared to be a balanced budget with no increases.

    Dave McCorquodale moved to adopt the following Resolution: A RESOLUTION APPROVING THE MONTGOMERY COUNTY EMERGENCY COMMUNICATION DISTRICT BUDGET FOR FISCAL YEAR 2016. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

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.

13. Convene into closed Executive Session as authorized by the Texas Open Meetings Act, Section 551.071 of the Texas Government Code, to receive confidential legal advice from its city attorney concerning contemplated litigation.

Mayor Jones convened into closed Executive Session at 6:42 p.m.

Reconvene into Open Session to act if necessary on matters discussed in Executive Session.

Mayor Jones reconvened the open meeting at 7:15 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

14. Consideration and possible action resulting from the item(s) listed under Executive Session.

Rebecca Huss moved to authorize the City Administrator to advise Milestone/Kroger that the City will not require on-site detention on its 52-acre tract. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

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.

There were no inquiries made by City Council.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 7:15 p.m. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

Submitted by: _____ Date Approved: 07/28/15
Susan Hensley, City Secretary

_____
Mayor Kirk Jones

CITY OF MONTGOMERY, TEXAS ★ FOUNDED 1837 ★