MINUTES OF REGULAR MEETING

October 27, 2015

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:01 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
	Rebecca Huss	City Council Position # 4
	Dave McCorquodale	City Council Position # 5
Absent:		
Also Present:	Jack Yates	City Administrator

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

No citizen's comments were made.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Regular Meeting held on October 13, 2015.
   Rebecca Huss moved to approve the minutes as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action on department reports.
   A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates noted that he had met with several developers during the month including the Apache Machine Shop, United Methodist Church, Pizza Shack and Kroger. Mr. Yates also

stated that he had met with Nic Houston regarding the TCF Grants. Mr. Yates said that he had worked on Emma's Way, Waterston water line discussions, and Summit Business Park development interests. Mr. Yates said that he is also finalizing the Automated Meter Reading System and Public Service Contract.

John Champagne asked about the meeting with Waterstone regarding the waterline and where they are on the progress. Mr. Yates advised that they were waiting on Waterstone to come back with a proposal. Mr. Yates said that at their meeting, Waterstone had proposed a renegotiation of their agreement and wanted to determine how much escrow funds were in their account. Mr. Yates said that they were supposed to consider both of those items and come back with a proposal next week for presentation at the next Council meeting. John Champagne said that Waterstone knew how much was in their escrow account, and asked if they wanted to modify their agreement that is outstanding at this time. Mr. Yates confirmed that they did know how much was in the escrow account, and that Waterstone wanted to lengthen the period of time for the agreement. John Champagne said that he thought it had already been three years. Rebecca Huss said that she believed there was an executive session where Council made a decision on how to proceed. Mayor Jones said that Council could discuss this information in more detail at a later date.

B. Public Works Report – Mike Muckleroy, Public Works Foreman, presented his report to City Council. Mr. Muckleroy advised that there were four water leaks and zero sewer stop ups. Mr. Muckleroy said that Fernland reported a total of 361 visitors and provided 47 tours for the month.

Rebecca Huss said that she had seen the Public Works truck out this weekend. Mr. Muckleroy said that he came in during the rain to try and pinpoint some drainage problems. Rebecca Huss asked if Mr. Muckleroy had located any. Mr. Muckleroy advised that he did not because the rain was steady but not hard enough to cause a problem. He did note that there were a couple of ditches that will need to be cleaned out because they are holding water. Rebecca Huss said that it was nice to see them being proactive and taking care of business.

John Champagne asked whether the zero sewer stoppages included the lift stations. Mr. Muckleroy said that it did not, it was the sewer lines. Jon Bickford asked if there were any stoppages at the lift stations. Mr. Muckleroy said that Lift Station 8 continues to have problems. Mr. Muckleroy said they were on the verge of getting the new pump, which is expected to be received from today through November 4, with installation during the second week in November.

John Champagne asked about the crack sealing and asked if the department was pleased with the job, because he did not know how they discern which crack to fill. There were some that he would have thought that they would have done and they did not. Mr. Muckleroy said that some are too large to fill, and if they are located on the edge of the road he was advised there was no point in messing with them because they will peel away. Mr. Muckleroy said that he and the City Administrator drove around and looked at the locations and did a total count of the number of cracks to be repaired, which is what they received a bid on. Mr. Muckleroy said that the contractor actually did more repairs than they had requested, so he was pleased.

Mayor Jones asked what needed to be done for the larger holes. Mr. Muckleroy advised that it would have to be cut out and redone. Mr. Yates stated that they have received a couple of quotes for some of the bad areas, such as Clepper Street, which was approximately $1,500 for 30-40 feet of repair. Mr. Yates said that he has given his approval for the work to be done and they are waiting for them to do the work. Mr. Muckleroy said that the work on Cemetery Street will be done next week.

John Champagne asked about the Baja Project. Mr. Yates advised that he just needed to speak with Montgomery County to see if they will contribute funds to the Project. John Champagne said that approximately two months ago that was where they were on the Project, and asked if Mr. Yates was not getting any cooperation or response from the County. Mr. Yates advised that he had not. John Champagne asked what Plan B would be? Mr. Yates said that Plan B would be to work with County Commissioner Meador and try to get a grade all to recut the ditch, and if not rent a grade all. John Champagne said that the residents had requested the work approximately eight month to a year ago and they deserve a better response that what we are giving them. Jon

Bickford asked if the City was at the point of giving up on the County and going with Commissioner Meador to get something done. Mr. Yates said that was correct.

C. Police Department Report – In the absence of Chief Napolitano, Lieutenant Joe Belmares presented the report to City Council. Lt. Belmares said that the Department had one officer resign and they are in the process of bringing on a new officer. Lt. Belmares said that the new officer has experience and has ridden with the Department and seems like he will be a good match. Lt. Belmares advised that they would bring the new officer to introduce him to City Council next month.

John Champagne said that he was still amazed how the Department runs about 50 percent citations issued to warnings.

Lt. Belmares stated that last month they had sent four officers to training, and they only spent $10.

Lt. Belmares advised that today there was a crash at the Community Center, where a gentleman ran into the historical wall at the Community Building. Lt. Belmares said that his truck set up high and he did not see the wall, but came to City Hall to report the incident. The report has been filed and the insurance claim submitted. Rebecca Huss asked if the person was insured. Lt. Belmares advised that he was insured. Mayor Jones advised that there was a mason that has repaired that wall in the past and is experienced with the wall.

Rebecca Huss asked if the West Fest traffic control was taken care of and asked if the Department had worked with them. Lt. Belmares said that they have not spoken to the Cowboy Church yet, but they will. Rebecca Huss said that last time the home game had 23 officers, and West Fest had two security people. Rebecca Lehn, Police Sergeant/Court Administrator said that she believed they had six officers this year but they will check with them tomorrow.

D. Court Department Report – Rebecca Lehn, Court Administrator, presented her report to City Council. Ms. Lehn advised that the totals were for the year, and the total collected for the year was $628,000, which is almost $200,000 more than last year. Rebecca Huss said that almost all of that is from new tickets and not the warrant collection agency. Ms. Lehn advised that was correct, adding that warrants were down and regular citation collections were up. Dave McCorquodale said that in a nutshell the $200,000 comes from a fully staffed Police Department. Ms. Lehn said this is the highest amount that they have ever collected. Ms. Lehn advised that the current month that they are in now, which will be reported next month, is probably going to be a record month.

John Champagne asked of the citations being issued, how many were going into arrears. Ms. Lehn said that there were still some going into warrants, but since they have so many citations, the percentage is up. John Champagne said that his question is what percentage of people are paying their citations, and asked if Ms. Lehn could have that information for him at the next meeting. Ms. Lehn said that she was going to take a guess and say that these are good citations being written and less people are fighting their tickets and following through with what they are wanting to do to take care of the ticket. Ms. Lehn said that they were also doing something different at the window and allowing someone to sign up for deferred disposition instead of having to wait for Court to sign up.

Mayor Jones asked if the Court was still considering conducting a second Court date. Ms. Lehn advised they already have a second Court date schedule for next year, with six additional dates over a six month period for two Court dates each month.

E. Utility/Development Report – Ashley Slaughter, Utility Billing Clerk, presented her report to City Council. Mrs. Slaughter advised that in September they had 25 new water accounts with 4 disconnections, for a total of 523 active accounts. Mrs. Slaughter advised that there were 7 new home building permits pulled during the month. Mrs. Slaughter advised that the Community Center had a typical number of bookings for a total of $545.

Mayor Jones asked if someone moving into a vacant property getting their water hooked up would be a new account. Mrs. Slaughter said that was correct they would be a new account.

John Champagne asked how long disconnects stayed vacant. Mrs. Slaughter said that they don't stay disconnected very long, and said that there were two different items cut offs for nonpayment and disconnects. Jon Bickford asked how many cut offs the City had during the month. Mrs. Slaughter said that during the past month they had approximately 6 cut offs, and all but two have come in and paid the account.

John Champagne asked how many of those cut offs were due to a problem with transparency in terms of payment being made and the City not knowing about the payment. Mrs. Slaughter said there were none that met that description. John Champagne asked if Mrs. Slaughter recalled any incidents like that in the last couple of months. Mrs. Slaughter advised that she did not. Mrs. Slaughter said that before they do any cutoffs, she gives the resident until 12:00 noon to come in to make a payment, and then she goes to the Post Office to make sure that no payments have been missed. Mrs. Slaughter said that if she gets the payment, she does not shut the account off. John Champagne said there has been some mention that accounts have been cut off without the City being aware of the payment being made, because of the system. Mrs. Slaughter said there was an instance where there was a homeowner who was cut off by mistake, when it should have been their neighbor, but that was corrected.

F. Water Report – Mr. Mike Williams presented his report to City Council. Mr. Williams noted that they had responded to five district alerts, with Lift Station 8 being pulled and cleared once. Mr. Williams advised that both pumps 1 and 2 failed at Lift Station 4, and NTS repaired pump 2 using parts from pump 1.

Rebecca Huss said that the report showed that the configuration requires that the technician has to go into the dry well, and asked whether they should change that process. Mr. Williams said that Lift Station is unique and has a five year warranty and is fairly new. Mr. Williams said that at the sewer plant the flow for the month of

September was 3.9 million gallons, with the daily peak flow on September 17 at 220,000 gallons and the average daily flow was 122,000 gallons.

Rebecca Huss asked where they came up with the rainfall number because there is no way that they had 4 ½ inches of rain. Mr. Williams said that the period of time was August 31 – September 31. Rebecca Huss said that there was no way there was that much rain. Dave McCorquodale asked who measured the rainfall. Mr. Williams advised that they measure the rainfall at the plant.

Mr. Williams advised that they had a water main break on SH 105 at Kicking Ash Barbeque, which was reported after a period. They did notice elevated pumping levels and the customer noticed a wet spot, but not spewing water.

John Champagne asked about the power surges or lapses, and asked whether Jones & Carter was going to report on that matter. Mr. Williams advised that they would because they were checking with Entergy.

Mayor Jones asked about Well 4 and the numbers reported. Mr. Williams advised that for the entire month of September, Well 4 ran 86 percent of the time. Rebecca Huss said that it shows that Well 3 ran 88 percent of the time during September. Mr. Williams advised that for Well 3, the 88 percent is based on the hours ran, because Well 3 is a lot smaller than Well 4 and produces about 1/3 of the water that Well 4 does. Mayor Jones commented that the report was a very professional report.

Dave McCorquodale said that under water production, the total amount of connections are shown at 546, but when they look back on the total number of active accounts is 523, and asked what the 23 connections are that don't show up. Mayor Jones asked if it could be City taps. Dave McCorquodale said that was what he thought, but he wanted to make sure that they know what those accounts are. Mrs. Slaughter advised that she would get the information on the number of City accounts for City Council. Mayor Jones asked if the City accounts are metered and read. Mr. Muckleroy advised that they are metered and read. Dave McCorquodale asked to check the numbers and make

sure that they are sure all accounts are accounted for. Mrs. Slaughter said that she would also get a total for the idle accounts. Mr. Yates advised that on page 5 that shows the average daily flow, the 122,000 gallons. Rebecca Huss said that the water production was also high during that period of time for irrigation.

Jon Bickford said that another thing that would be worthwhile to keep an eye on would be the City usage of water, water at the parks, etc. Rebecca Huss said that Mrs. Slaughter could probably put that information into her report. Jon Bickford said that he did not care where they put the information, but he would really like to start seeing that information. Mrs. Slaughter advised that she would do a consumption report. Jon Bickford said that she might be able to do the information by meter(s), such as, these meters are serving Memory Park, etc. Jon Bickford said that it would be interesting to see if the City is conserving every place that they can. Mrs. Slaughter said that it would be in the next report.

Rebecca Huss said that the report shows the City has 12 Lift Stations, and said that she thought the City had 15 Lift Stations. Mr. Williams advised that there are 12 Lift Stations that they check. Mr. Muckleroy advised that there are four Lift Stations that are not the typical lift stations, they are sealed, and when they have a problem, a light goes on and they are checked and serviced. John Champagne asked whether they have a service program for those Lift Stations, so they would be handled reactively not proactively.

John Champagne asked about Lift Stations, and whether the company tally the cost for Lift Stations and at some point is there a report to the City Administrator with recommendations that something be done to reduce the service calls and/or cost to maintain them. For instance, Lift Station 8 has an impeller now that is fashioned to slice up these clothes, and when was that recommendation made and by whom? Mr. Williams said that recommendation was made prior to him coming to the City to work, and if there are any issues such as that, yes they would be brought to the City Administrator. Mr. Skarboszewski, General Manager with Gulf Utility, advised that he was here when they started and they got with Jones & Carter when they started

having a lot of problems with that Lift Station. Mr. Skarboszewski said if they do start having a lot of problems, they go to Mr. Muckleroy first and then work with Jones & Carter. John Champagne said that for the first five months they were averaging $5,000 per month for Lift Stations, and asked if that was normal. Mr. Williams said that was not normal. John Champagne said that it was normal for the City because one month it was $10,000, then $2,200, then $7,000, and asked when it becomes an issue. Mr. Williams said that it becomes an issue as soon as they are seeing spikes and pumps dragging. John Champagne said that he knew Mr. Williams was new, but his company has been doing this for as long as he has been here, so his question is when a red flag comes up and whether it is dollar sensitive or what would set it off. Mr. Skarboszewski said that if they have the same problem at the same lift station continually, then that is a problem. Mr. Skarboszewski said that just because they have a problem at a Lift Station, it could be a myriad of things, so if they notice that they are having the same type of problem at that Lift Station, then it is a problem and they are going to come to the City with a solution. Mr. Skarboszewski said that Lift Station 8 has been the biggest problem for the last 8 months, because he does not see the other Lift Stations having the same problems.

John Champagne asked how much a Lift Station costs to build. Mr. Ed Shackleford, City Engineer, advised that a new Lift Station can start out at $250,000 and up. Rebecca Huss said that they could have paid for the new motor if they would have started 8 months ago. Rebecca Huss asked if they tracked the amount of money charged by Lift Stations. Mr. Williams said that they did. Rebecca Huss asked if they could show the amount of money that has been spent on each lift station through the fiscal year. Mr. Williams advised that they could show that information. Rebecca Huss said that information could be given to the City as an early warning and show where the problems are. Mr. Williams said that he would add that information to the report. John Champagne said that while that was great information, he did not want to be the one to determine that it is time to do something to the Lift Station that needs to be done within the organization, but it would be good to see how the numbers are tracking. John Champagne asked how long the company has been serving the City. Mr. Williams advised that it has been four years.

G. Engineer's Report – Mr. Fleming presented the report to City Council. Mr. Fleming advised that they are finalizing their written report for the Water Distribution System Modeling and Master Plan for the City and intend to deliver that information at the November Council Meeting. Mr. Fleming advised that they have also completed the Sanitary Sewer Modeling and Master Plan is ongoing.

Mr. Fleming said that the Texas Capital Fund Grants are nearing conclusion and they should have approval soon. They are looking at kickoff meetings early next week and hope to see dirt moving in the next two weeks. Mr. Fleming reviewed the plan reviews that are currently in progress.

Mr. Fleming said that he and Mr. Yates met with Waterstone regarding the Buffalo Springs waterline to discuss completion of line across Town Creek. As a result of that meeting, Mr. Fleming has requested that they come back with a clear understanding of what they would like. They did indicate that they wanted to renegotiate some terms with their existing development agreement, and Mr. Fleming has asked for some further clarification about escrow accounts and balances that they are holding.

John Champagne asked whether Waterstone was asking for modification and/or renegotiation of their agreement. Mr. Fleming said that was his understanding. The meeting was to include himself, Mr. Yates, Mr. Young and Mr. Bowen, but Mr. Bowen was called away at the last moment and was unable to make the meeting. John Champagne asked if Mr. Yates conveyed to Waterstone that he had direction from City Council to do "X." Mr. Yates said that he did not. John Champagne asked how many times he can come back asking to renegotiate.

Mayor Jones said that he did not think that they should discuss this matter in open session. John Champagne said that they were talking in general and not any specific thing. John Champagne said that City Council gave direction and they have an individual asking to renegotiate. Mr. Fleming said that the only terms that he is currently aware of is what is written in the development agreement. Mr. Fleming said

if there has been prior direction from a previous Council, Jones & Carter is not aware of that, but given the opportunity to be brought up to speed he would be happy to do so. Mayor Jones said that direction was given verbally in the past with the previous City Attorney. Mayor Jones stated that personnel has changed since then. John Champagne said that they should be done with renegotiations, because this has been going on for a while. Mayor Jones said they definitely need resolution soon.

Mr. Fleming advised the decommission of Lift Station No. 11 (Berkley Drive) was now complete, and a Certificate of Acceptance for Section One utilities has been prepared for Council approval tonight.

Mr. Fleming stated that the final walk through had been completed for Montgomery Summit Business Park and their Certificate of Acceptance has been prepared for Council approval tonight.

Terra Vista, Section One, has construction of water and sanitary sewer is underway, and the waterline extension along FM 1097 should commence within the month.

Mr. Fleming advised that Waterstone, Section One, had submitted a request to subdivide a portion of the Restricted Commercial Reserve "A" by metes and bounds. Mr. Fleming stated that this had gone before the Planning and Zoning Commission last night.

Mr. Fleming noted that the construction of water, sanitary sewer, storm sewer and lower stage inlets for Waterstone Section Two is almost complete. Paving work will start within the next two weeks.

Mr. Fleming stated the anticipated delivery of the pumps for Lift Station 8 was October 27 – November 10th, with an anticipated installation on November 16-17. Mr. Fleming advised that if the pumps arrive earlier, they will expedite their installation.

Mr. Fleming advised that he had recently discovered a billing error whereby the City was overcharged incorrect rates for services by certain level employees with Jones & Carter. Mr. Fleming stated that they immediately corrected the problem and worked with the bookkeeper not just to settle the amount due to the City, but to credit the respective accounts correctly. Mr. Fleming advised that three checks were issued to the City on September 30, 2015 in the amounts of $25.00, $1,060.25 and $229.00, payable to the City's Capital Projects Fund, General Fund and Utility Fund. Mr. Fleming extended his apologies for not having caught the error before it left his office, and assured City Council that the matter had been rectified and would not be an issue. City Council expressed their appreciation to Mr. Fleming for catching the problem and for his honesty. John Champagne asked if the charge was a result of invoicing to the City. Mr. Fleming advised that each different employee, with respect to their tier, such as a GIS operator has their own billing tier, and for some reason there were three specific employee levels that were billed incorrectly. John Champagne asked if that was the only check and balance internally with Jones & Carter, or whether the City has one.

Mr. Shackleford said that he did not think that it would have been difficult for the City to catch the error. Last November when the City signed the Professional Services Agreement with Jones & Carter, they committed to the then City Administrator that even though the rest of the Company was changing rates for 2015, the City would remain the same because they had just executed the Agreement. Mr. Shackleford said that they did not catch that their accounting had automatically raised the rates on these particular categories. Mr. Yates advised that he reviews the bills when they come to the City. Mr. Shackleford said that normally when there is a rate change, they will bring the rate change to the City so they have the new rate schedule so that the rates can be cross checked by the bookkeeper. Mr. Shackleford apologized for the error and said that it was caught and corrected.

H. Financial Report – Mrs. Cathy Branco presented her report to Council. Mrs. Branco stated that the funds available in the General Fund are $942,172, Capital Projects - $313,161, Debt Service Fund - $106,032, Court Security-10,517, and Court

Technology - $6,533. Mrs. Branco advised that the Grant Fund Accounts will be used for the Kroger and Pizza Shack projects. Rebecca Huss asked about the $106, 000 in the Debt Service Account, and since the report was dated October 22, 2015, asked whether the September payment had been made. Mrs. Branco confirmed that she had made the September payment. Mrs. Branco continued that the Hotel Occupancy Fund was at $9,399, Montgomery Economic Development Corporation - $563,313, Police Asset Forfeitures - $185, and the Utility Fund - $198,001 for a grand total of available funds of $2,149,616. Mrs. Branco stated that the next Debt Service payment will come due in March 2016 in the amount of $404,000.

Mayor Jones asked if the P&L was equivalent to a year-end report. Mrs. Branco advised that it was equivalent to the year-end, but there will need to be some changes by the auditors at year end, so it is not exactly what they will see, but it is very close. Mayor Jones said that hitting the highlights, revenue and taxes was well below expectations. Mrs. Branco said that was correct. Mayor Jones said that the expenses were also well below expectations. Mrs. Branco said that was pretty accurate, and it left the City with a $12,000 net income for the year. Mrs. Branco said that the sales tax was under by about $65,000. Mrs. Branco advised that at the end of the year the City has to accrue two more months of sales tax, because the sales tax is actually for two months behind when it is received. When you receive the October payment, it is for August. Mrs. Branco said that the two month estimate that she will accrue will be based on the last year's payments. Mayor Jones confirmed that this report has an estimate of the two months included, and if they received more than the estimated amount he asked whether that number would be changed in the report. Mrs. Branco advised that was correct, the numbers would be changed to reflect the amount received.

Mrs. Branco said that she has already started on the adjusting entries for the Audit. Mrs. Branco said that as soon as she hears from the Auditor she will be setting up time for them. Mrs. Branco said that she is expecting the Auditor around December 1. Rebecca Huss said that Mrs. Branco might want to remind the Auditor that he had stated before City Council that they would do better this year. Mrs. Branco said she would convey that information.

Jon Bickford moved to accept the Department Reports as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

3. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY DESIGNATING THE CONROE COURIER AS THE OFFICIAL NEWSPAPER FOR THE CITY OF MONTGOMERY, AND AUTHORIZE THE CITY ADMINISTRATOR TO EXECUTE CONTRACT.

Mr. Yates advised that the Official Newspaper is required to be designated annually for legal publications and notices. Mr. Yates advised that a contract has been negotiated by the City Secretary with the Conroe Courier providing a 25.5% savings.

Jon Bickford asked why the City used the Conroe Courier versus the local Montgomery paper and whether it was a circulation and frequency issue. Mayor Jones said that there are times when they have to publish back to back days for legal notices.

After discussion, Rebecca Huss moved to adopt the following Resolution: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY DESIGNATING THE CONROE COURIER AS THE OFFICIAL NEWSPAPER FOR THE CITY OF MONTGOMERY, AND AUTHORIZE THE CITY ADMINISTRATOR TO EXECUTE CONTRACT. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, ESTABLISHING A BUSINESS CREDIT CARD ACCOUNT WITH FIRST FINANCIAL BANK.

Mr. Yates stated that the City has had a credit card for several years. The previous card was in the name of Carol Langley, including having her credit listed at stake depending on the City's payment/non-payment of the bill. Mr. Yates stated that credit card was cancelled. Mr. Yates said that the new card will be with the City's local depository bank. Mr. Yates advised that the

charges will be approved by the City Administrator, with the maximum daily use of the card at $1,500.

Jon Bickford moved to adopt a Resolution of the City of Montgomery, Texas establishing a business credit card account with First Financial Bank with Jack Yates, City Administrator, Susan Hensley, City Secretary, and Mike Muckleroy, Public Works Foreman, listed on the account. John Champagne seconded the motion.

Discussion: Rebecca Huss stated that the Chief of Police has been left off as a Department Head. Jon Bickford stated that Police Lieutenant Joe Belmares will be included on the list for the account. Rebecca Huss stated that if they are limited to $1,500 per day, are there any provisions for natural disasters where they need to purchase a generator or other equipment. Mr. Yates advised they would be in the same shape that they are now, where the City Administrator has the authority in an emergency to expend funds and the City would be billed by the provider. Mayor Jones said that they could also write an emergency check is necessary.

The motion carried unanimously. (5-0)

5. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION REGARDING CIVIL RIGHTS – THE CITY OF MONTGOMERY, TEXAS ADOPTS/REAFFIRMS THE FOLLOWING: 1) CITIZEN PARTICIPATION PLAN AND GRIEVANCE PROCEDURES; 2) SECTION 3 POLICY; 3) EXCESSIVE FORCE POLICY; 4) POLICY AND GRIEVANCE PROCEDURES; AND 5) FAIR HOUSING POLICY.

Mr. Yates presented the information advising that this Resolution was a required action related to the grants for Kroger and Pizza Shack.

Mr. Yates advised that the City is required to do this due to the Texas Capital Fund Grants. Mr. Yates stated that this is an all-encompassing Resolution that adopts housing urban development act, requirement to provide training and excessive force policy. Rebecca Huss said that in Mr. Yates documentation, it states that the City's policy is actually better than the

one that they are being presented to adopt, and asked whether adopting the new policy would make the City's worse. Mr. Yates said that they would not dispose of the City's current policy and they will work side-by-side. Mr. Yates said that the Resolution also provides that the City cannot discriminate on the basis of a person's disability, and that the City is in favor of the Fair Housing Policy.

John Champagne asked if this Resolution was tied to anything. Mr. Yates said that it is required by the Texas Capital Fund Grants. John Champagne stated that he was opposed to the Resolution because it was unconstitutional, because nowhere in the Constitution are citizen's entitled to fair housing. John Champagne stated that when they were elected to City Council, Council members sworn in to office they swore to uphold the Constitution.

Rebecca Huss moved to adopt a Resolution that adopts and reaffirms the following: 1) CITIZEN PARTICIPATION PLAN AND GRIEVANCE PROCEDURES; 2) SECTION 3 POLICY; 3) EXCESSIVE FORCE POLICY; 4) SECTION 504 POLICY AND GRIEVANCE PROCEDURES; AND 5) FAIR HOUSING POLICY. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss stated that over one million dollars is riding on this action. John Champagne said that it was unconstitutional. Rebecca Huss said that it was constitutional, and if the State Attorney General assumes the Federal Government follows the Constitution. John Champagne said that he could not help it if the State Attorney General doesn't know how to read the Constitution. Rebecca Huss said that she was done discussing the matter.

The motion carried with 4-Ayes, and 1-Nay vote by John Champagne. (4-1)

6. Consideration and possible action regarding adoption of the following Proclamation: A PROCLAMATION PROCLAIMING NOVEMBER AS FAIR HOUSING MONTH IN THE CITY OF MONTGOMERY.

Mayor Jones read the Proclamation into the record.

T.J. Wilkerson moved to adopt a Proclamation proclaiming November as Fair Housing Month in the City of Montgomery. Dave McCorquodale seconded the motion, the motion carried with 4-Ayes and 1-Nay vote by John Champagne. (4-1)

7. Consideration and possible action regarding adopting the following Ordinance:
AN ORDINANCE AMENDING CITY OF MONTGOMERY ORDINANCE NO. 2009-05 TO INCLUDE ADDITIONAL AND FUTURE AREAS WITHIN THE CITY IN THE GRANT OF AUTHORITY; MAKING CONFORMING AMENDMENTS; PROVIDING FOR ACCEPTANCE; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Mr. Yates advised that this was the ordinance that grants a right to CenterPoint to serve in the three areas discussed at the last Council Meeting.

Jon Bickford stated that he trusted that the City Attorney, Larry Foerster, who is not present, has reviewed and approved the Ordinance. Mr. Yates advised that was correct.

Jon Bickford moved to accept the an Ordinance amending City of Montgomery Ordinance No. 2009-05 to include additional and future areas within the City in the grant of authority; making conforming amendments; providing for acceptance; providing for severability and providing an effective date. John Champagne seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding a Variance for Driveway Spacing for the Kroger Store.

Mr. Fleming advised that there are three items included with his information, one being a memo that was presented to the Planning and Zoning Commission yesterday evening, a variance request from the design engineer for the project, and a copy of the civil drawings. Mr. Fleming advised that the Code of Ordinances, Section 78-133(d) (1) requires a minimum spacing of 275 feet between each point of egress where nonresidential driveways adjoin a major street. The

design engineer is requesting a variance because the spacing may not be achieved due to the existing geographical features.

Dave McCorquodale said that there is a standard out there somewhere for the locations of the driveways and how far apart they are that is safe on roads with that speed. Mr. Fleming said that if they did not have this specification in the City's Code, they would refer back to the Texas traffic information.

Mr. Shackleford said that the Code of Ordinances states that if you have a street intersecting another street, and there is an off-set street, the off-set streets need to be a minimum of 125 feet, and in most cases a public street is going to generate as much if not more traffic than a commercial driveway. Mr. Shackleford said that this was recommending 275 foot separation between the two driveways intersecting Lone Star Parkway, and they were comfortable with that. Mayor Jones stated that Lone Star Parkway was under the jurisdiction of the County, and asked if the City also has jurisdiction because it is located inside the City, or should this matter be deferred to the County.

Mr. Fleming advised that as part of their review comments on the initial drawing review, stated that they would need to approach the County to determine if there was any additional criteria to enforce, and whether they would have to submit a traffic impact analysis to the County. Mr. Fleming advised that he has just received the information back and has not had a chance to review the information.

Mayor Jones asked whether the Planning and Zoning Commission had reviewed the request. Mr. Fleming advised that they had reviewed and unanimously approved the request at their meeting last night. Mr. Shackleford said that the guardrail and drainage ditch are the driving issues.

Dave McCorquodale said he is not a traffic engineer, but FM 1488 is a great example of what the State allows to try and turn out into traffic, which is about a death wish on FM 1488.

Mayor Jones said that he thought in this case, there was no potential to redesign the site because of the bridge and property line. Dave McCorquodale said that instead of taking this driveway

out onto Lone Star Parkway, they could go out to the west. Dave McCorquodale said that they could take the driveway down the eastern side of the parcel next to Kroger and tie into the other driveway, or take that driveway out.

Mr. Shackelford asked if the concern was the northbound traffic pulling out onto Lone Star Parkway that they won't see oncoming traffic because of the guardrail. Dave McCorquodale said that was correct, they would have a hard time seeing traffic coming northbound, and then they will have people cutting up to the northbound driveway because they don't want to wait and go around so now you have traffic and a driveway that is closer than our design standards states. Mr. Shackleford said that one option would be to limit the turning movement out of the southern retail driveway to a right turn only, which would eliminate the crossing of traffic and not being able to see northbound traffic. Rebecca Huss said that she thought that would be smart. Dave McCorquodale asked if they could still let cars in from either direction, but only let them out one way. Mr. Shackleford said that the City could also petition the County to see if they should be reducing speed from 45 mph to 35 mph in that business district. Dave McCorquodale said that he did not want to get to the situation where they are cramming driveways in, because in five years it could be a big deal. Dave McCorquodale said that he knows there is a solution, and he does not believe it is a variance.

Dave McCorquodale moved to deny the variance request and asked the City Engineer to discuss alternatives with the developer. John Champagne seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding awarding the City Mowing Contract. (*Tabled at the September 8, 2015 Meeting*)

Mr. Yates advised that he and Mr. Muckleroy proposed to Mr. Ewing the elimination of the linear feet of mowing in the developed parts of the City that are routinely mowed by property owners. For the few areas that are in the developed areas that become necessary to mow either City crews could mow with weed eaters, or we could ask Mr. Ewing to mow for an additional charge. Mr. Muckleroy also suggest eliminating the Lift Stations from the Mowing Contract, thinking that the City crews could mow with the purchase/use of one quality weed eater or grass elimination chemicals.

The two alterations to the contract resulted in a reduction in cost for the Lift Stations of $2,800, and for the less linear feet of mowing the right-of-way areas was a reduction of $2,300. Combined the reduction in the bid went from $69,840 to $64,740. Mr. Yates stated that he and Mr. Muckleroy both agreed that the $2,300 savings was not worth the nuisance.

Mr. Yates advised that they are recommending taking off the $2,800 for mowing the Lift Stations from the proposed contract price of $69,840, and keep the mowing of the right-of-way in the contract. Mr. Yates advised that he is recommending a two year contract. Mr. Muckleroy said that they would also recommend the purchase of one weed eater to maintain the Lift Stations.

Jon Bickford asked about Fernland, and whether there was additional work that they will need to get done to accommodate the previous arrangements with the voluntary crew.

After discussion, John Champagne moved to award the City Mowing Contract to 3rd Day Creations for two years. Jon Bickford seconded the motion.

Discussion: John Champagne asked what they would guess would be the percentage of the cost resulting from people not cutting their six feet of property. Mr. Ewing advised that he thought it was 80-85 percent if the people not cutting that area. Mayor Jones said that some of the properties have fences.

Rebecca Huss said that at Cheatham's property they do not mow the strip, they have short grass and then in the right-of-way they have long grass. Rebecca Huss said that they have no fencing or geographical problem that would prevent them from mowing. Mr. Ewing said that there is no ditch, but they stop 5 feet from the street.

John Champagne said that he wanted to remind people that the 80-85 percent of $69,000 adds up and is real money. Mr. Muckleroy advised that 2/3 of the ROW's are State right-of-ways. John Champagne said that it would be nice if everyone would be conscious of what they are doing and not leave 5-6 feet of grass un-mowed.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding awarding the bid and contract for the Montgomery Water and Sewer Contract Service 2015, and authorize the City Administrator to execute. *(Tabled at the October 13, 2015 Meeting)*

Mr. Yates stated that the bids and Gulf Utility billing amounts for the past year have been submitted. Mr. Yates also included the most recent monthly billing statement from Gulf Utility for $6,600. Mr. Yates advised that Mr. Muckleroy was present to answer any questions.

Mr. Yates stated that he, the City Engineers, and Mr. Muckleroy continue to recommend the election of Gulf Utility due to their recent improvement in services and because of the substantial savings, compared to the other bids. Mr. Yates said that the bid says a one year contract automatically renewed unless either party gives notice.

Mayor Jones said that this item was tabled because of the difference in the bids. Mr. Yates said that they are comparing apples to apples and they will be getting the same service from Gulf as we would with the others.

Mr. Muckleroy said that he agreed with Mr. Yates, and confirmed that it was a collective agreement with himself, Mr. Yates and the City Engineers that the service they are getting from Gulf Utility has significantly improved and the Tuesday meetings that the City Engineer hosts have helped them come a long way and improved communications so that everyone knows what is going on at all times. Mr. Muckleroy said that within the last year there is all new City staff, and he cannot speak on what happened in the past. The changes that Gulf Utility has made, especially since Mr. Williams has taken over, immediately pointing things out to the City has made a complete turnaround on what they had seen in the past.

Mayor Jones said that the City could bail out of the agreement with thirty (30) days' notice, by either party, so if things are not going the right way they can do something. Jon Bickford asked Mr. Yates to confirm that the language was in the agreement that the City could get out of the

agreement with thirty (30) days' notice. Mr. Yates confirmed that language was in the agreement.

John Champagne said that it would be very hard for him to vote against not only Mr. Yates, but Mr. Muckleroy, because he has a high degree of respect for them. John Champagne said that the disparity of the bids is ridiculous, because he looks at bids all the time. He would throw out the low bid because he would look at it as an anomaly, with that being said, staff's reference is a lot better than his. John Champagne asked to make sure that the comfort level was not weighing too heavy on the decision. Mr. Muckleroy said that it was not. Mr. Yates said that he sincerely thinks that Gulf Utility's familiarity with the information that exceeds the other two bids. John Champagne said that they should see a market improvement at the end of the year with this amount spent. John Champagne asked if the number proposed on the RFQ was higher or lower than the base line charge they received last year from Gulf Utility. Mr. Yates advised that it was higher by approximately $300 - $400 per month. John Champagne thanked Mr. Yates for the information.

Rebecca Huss moved to accept the bid submitted by Gulf Utility as operator and authorize the City Administrator to execute the contract. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action regarding City Street name sign replacements.

Mr. Yates said that he had received a comment from a citizen that stated the street signs were hard to read because the letter is six inch rather than a nine inch print. Mr. Yates advised that the cost of replacing all of the existing street signs would be approximately $5,262 for 118 signs. Mr. Yates stated that a lot of the existing holders would be able to be used, except for the Historic District, which has a frame around the plate. Mr. Yates advised that combined, the overall cost of the materials and labor would be approximately $6,100. One alternative is to replace the signs on the main State roads to 9 inch like the one at Cemetery and SH 105 and leave all others at 6 inch for a cost of $1,400. Mr. Yates said that there appears to be no issue reading the smaller signs on the side streets, but the issue was on the streets with higher speed limits.

Mr. Muckleroy said that the recommendations for speeds is 25 mph or lower the sign should be 6-inch blanks, 25-40 mph they recommend 9-inch blanks with 6-inch lettering, and when you get to 45+ mph they recommend 9-inch blanks with 8-inch lettering. Mr. Muckleroy advised that they do have a few signs on I49 and SH 105 that have been replaced over the years with the standard 6-inch blanks.

Mayor Jones said that Mr. Duncan, who submitted the request, knows what he is talking about because he does this for a living with the City of Pasadena. Jon Bickford said that one of the most frustrating things he noticed when he first moved to the City was the smaller signs, and he has trouble reading them.

Dave McCorquodale said that Mr. Duncan had commented that in terms of the life span of the signs, as they replace the signs they could change the signs to the larger size. Dave McCorquodale said that he did not like the brown lettering, and said that they should keep the same type face, like the ones by the cemetery and on Eva Street, for all signs. Mr. Duncan also pointed out that all of the smaller signs are what he referred to as "super engineer grade" which means they have a reflective backing, which is typical to use on directional signage. Mr. Duncan stated that for wayfinding signage they use a standard non-reflective backing. Dave McCorquodale asked that they just touch base with Mr. Duncan for some input.

Jon Bickford said that it would be good to change them as we move forward. Rebecca Huss said that it might be worthwhile to touch base with Mr. Duncan. Mr. Yates said that he would contact Mr. Duncan.

Mr. Yates said that he would start with the signage on 149 and SH 105, and replace the others as they need to be replaced. Mr. Muckleroy asked if they wanted any of the new signs to go to the 9-inch blanks. Jon Bickford said that he agreed with Dave McCorquodale, we need to pick some letters that we can read. Mayor Jones wanted to keep the flag on the signs. Jon Bickford said that the old signs were just fine.

12. Consideration and possible action regarding an amendment to the City Administrator's Employment Contract at Paragraph 4 (a) to authorize the City to pay his Medicare healthcare benefits in lieu of certain healthcare benefits currently offered by the City to its employees.

Rebecca Huss asked Mr. Yates if he wanted to opt out of the City coverage, or does he just feel obligated to do so. Mr. Yates said that he felt somewhat obligated and he also felt like he would have good coverage.

Jon Bickford asked if Mr. Yates was sure that his coverage would be as good as the City's coverage. Jon Bickford also asked if Mr. Yates wanted to take Medicare later on down the road, would there be any implications. Mr. Yates said that he did not think so.

John Champagne moved to deny the request. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

13. Consideration and possible action regarding interlocal agreement with Montgomery County Precincts 1 and 2, and preparation of Mobility Plan and Major Thoroughfare Study.

Mr. Ed Shackleford, City Engineer, made the presentation to City Council. Mr. Shackleford said that they wanted to make sure that the County's Major Thoroughfare Plan blends with the City of Montgomery's Transportation Mobility Plan. Mr. Shackleford said that while Montgomery did not have a direct representative on the Task Force for the County wide Thoroughfare Plan some people were looking out for the City's interest, but probably not to the extent it needs. During the conversations with the County, they asked Commissioner Riley if he would be willing to participate in an Interlocal Agreement to update Montgomery's Major Thoroughfare and Mobility Plan and to make certain that it is a cohesive document with the County's Major Thoroughfare Plan, and the Commissioners agreed. Then they went and spoke to Commissioner Meador about the Baja Project and the Thoroughfare Plan that Commissioner Riley had agreed to and Commissioner Meador was very supportive.

Mr. Shackelford advised that they were bringing this request to City Council as a two way agreement between the City of Montgomery and Montgomery County, for the two Precincts

to put in $15,000 each and the City of Montgomery to put in $15,000. Mr. Shackleford said that Montgomery County would be the project manager and the City would enter into an Interlocal Agreement with Montgomery County. Mr. Shackleford said that in his memo to City Council various things would be included in the study. Mr. Shackleford said that they were asking for City Council's authorization to initiate the study with Montgomery County and the Interlocal Agreement.

Rebecca Huss said that they have already danced to the tune of Montgomery County managing a project for the City. Mr. Shackleford advised that was through their Community Development Group, this would be through their Engineering Group.

Rebecca Huss said that she had confidence in Jones & Carter as the City's Engineer, but if the City was only paying one third of the cost, how was it all going to work. Mr. Shackleford said that the understanding is that they would hire Jones & Carter and they would coordinate not only with the Commissioner's Office but also the County Engineer's Office. Rebecca Huss asked if they could make the approval of the Agreement contingent upon Jones & Carter being hired. Mr. Shackleford advised that both Commissioners are supportive of Jones & Carter being hired for the job.

Rebecca Huss asked if the bond fails again will that affect anything. Mr. Shackleford said that this would be independent of the bond. Rebecca Huss asked if this information could be linked to the HGAC and State wide grants and application cycles, for future funding. Mr. Shackleford advised that having a plan would help the City pursue projects through HGAC, but based on his experience with Harris County the process can be quite lengthy.

Mayor Jones asked if this kind of plan or study have any clout with TxDOT. Mr. Shackleford stated that it would because it will lay the groundwork. Mayor Jones said that if City Council approves this action he would like at least one meeting with them to discuss the plans.

Jon Bickford moved to enter into the Interlocal Agreement as presented, with Montgomery County Precinct 1 and Precinct 2 to initiate a Major Thoroughfare Study and launch a City

wide Mobility Plan, subject to Jones & Carter being selected as the Engineering Firm. Dave McCorquodale seconded the motion.

Discussion: John Champagne stated that Mr. Shackleford had indicated that the Commissioner was agreeable to the Baja Project, and asked whether this would include the Baja situation. Mr. Shackleford advised that it was not part of the Agreement. Mayor Jones asked if the motion was to include the condition of Jones & Carter being selected. Jon Bickford said that was his motion.

The motion carried unanimously. (5-0)

Mr. Yates confirmed that the funding would come out of contracts, labor and streets where the surplus funds were placed. Council concurred that would be correct.

14. Review and approve City Certificate of Acceptance pertaining to water, sanitary, and drainage improvements within Lake Creek Village, Section One.

Mr. Fleming presented the information to City Council, stating that they had not prepared and reviewed the construction drawings for this project, they have been involved in the oversight.

Jon Bickford asked if the pipes were large enough to handle further development. Mr. Fleming said that is was their understanding that the line was sized to handle a portion of the Buffalo Springs development as well as the Lake Creek Village development.

Mr. Fleming said that they will do all the final accounting and make sure the bond is in place and then have Mr. Yates sign the document, which will be provided to the developer.

After discussion, Jon Bickford moved to approve the City Certificate of Acceptance pertaining to water, sanitary, drainage and paving improvements within Lake Creek Village, Section One. John Champagne seconded the motion, the motion carried unanimously. (5-0)

15. Review and approve City Certificate of Acceptance pertaining to water, sanitary, drainage, and paving improvements within Montgomery Summit Business Park, Phase I.

Mr. Fleming presented the information to City Council. Mr. Fleming stated that they had not prepared and reviewed the construction drawings for this project, they have been involved in the oversight of the project.

John Champagne moved to approve the City Certificate of Acceptance pertaining to water, sanitary, drainage, and paving improvements within Montgomery Summit Business Park, Phase I. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

16. Review and approve Pay Estimate No. 11 and Final for Water Plant No. 3 Improvements Project.

Mr. Shackleford advised that this was for the Water Plant No. 3 Improvements that included the cooling tower, underground storage tank, piping and new electrical controls. Mr. Shackleford advised that the original contract was $891,000 with a couple of change orders, and liquidated damages in the amount of $ 15,000. The adjusted contract price was $898,915.85, which is $85 cheaper that the original contract amount. Mr. Shackleford advised that the contractor has been paid $806,011.89, which leaves a balance due of $92,903.96.

Mr. Shackleford stated that they are recommending payment. Mr. Shackleford said that they have received the Affidavit of Bills Paid and they have performed the One-Year Warranty, so they are asking for approval for the City to issue the check and asking for approval for the City to sign the Certificate of Acceptance. Mr. Shackleford also stated that the punch list items have been accomplished, with one minor warranty item to be completed by the contractor.

Jon Bickford asked if this was the contactor that agreed to accept the $15,000 penalty. Mr. Shackleford said that was correct. Mayor Jones asked if that amount was built into this. Mr. Shackleford said that was correct.

Jon Bickford moved to make the Final Payment of $92,903.96, as presented by Mr. Shackleford with Jones & Carter. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Mr. Shackleford stated that the Construction Fund would have a balance of $211,000 after the payment, based on the balance provided by Mrs. Branco. Mr. Shackleford advised that he had taken the amount of the final payment and subtracted it from the current fund balance.

17. Consideration and possible action regarding a replat of Mitchell Corner.

Mr. Fleming presented this information to City Council. Mr. Fleming advised that the original tract was platted as one single commercial reserve, and they have requested to subdivide it into two individual commercial reserves. Mr. Fleming said that Reserve "A" will be where the existing Iron Works building is located, and Reserve "B" will be where the new Apache Fabrication Shop is located, as well as the additional acreage at the corner of Plez Morgan.

Rebecca Huss confirmed that this would not change the type of usage for the tract of land. Mr. Fleming advised that the usage would remain the same.

Mayor Jones asked if the Planning and Zoning Commission looked at this information. Mr. Fleming advised that they reviewed the information last night at their meeting and approved the action.

Jon Bickford asked if Mr. Fleming knew the rationale behind the request. Mr. Fleming advised he had no idea. Mayor Jones said that they might want to extend Apache and go across the line.

Jon Bickford moved to accept the replat of Mitchell Corner as presented. Dave McCorquodale 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. (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.

No comments were made.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 8:24 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Submitted by: _____ Date Approved: 11/10/2015
Susan Hensley, City Secretary

_____
Mayor Kirk Jones