MINUTES OF REGULAR MEETING

February 23, 2016

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:08 p.m.

Present:	Kirk Jones	Mayor
	Jon Bickford	City Council Position # 1
	John Champagne	City Council Position # 2
	Rebecca Huss	City Council Position # 4
Absent:	T.J. Wilkerson	City Council Position # 3
	Dave McCorquodale	City Council Position # 5
Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

Mayor Jones stated that during the Texas Flag pledge he was reminded that this is a time of celebration in the State of Texas. Mayor Jones said that about this time many years ago, the siege of the Alamo started and after that Texas became the great State it is today.

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:

1. Matters related to the approval of minutes for the Regular Meeting held on February 9, 2016.

Rebecca Huss moved to approve the minutes as presented. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

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 advised that he had met with several developers during the month regarding Emma's Way, Wade Nelson regarding SH 105 in general, and a developer concerning SH 105 and Lone Star Parkway, Mr. Bowen regarding Waterstone Development, Kroger development, a 68-acre property that Council discussed last month, and Pizza Shack.

Mr. Yates said that he had worked with Mr. Washington regarding Wade Street, and with Mr. Brosch regarding Mason Street. Mr. Yates advised that he has worked on the dilapidated building issue, and the letters are ready to send out to the property owners.

Mr. Yates said that they are waiting for the Deputy Court Clerk to return from maternity leave to proceed with the new Court software.

Mr. Yates advised that he had discussed Baja Street with the City Engineer and it would be an item on the next Council Agenda.

Mr. Yates said that he had worked with the contractor and staff regarding the Automatic Meter Reading System water meters during the installation process.

Mr. Yates said that it had been suggested that he give the Departmental Reports for each of the departments. Mr. Yates said that he thought that this was to streamline the

time and to summarize the reports. Mr. Yates asked City Council how they felt about that suggestion.

Rebecca Huss said that she would prefer to continue to hear from the Departments, but would like it if they could keep their comments to two or three sentences regarding the highlights when items are important. Rebecca Huss said that she reads the reports, so if they are reading what they wrote in their report, she has already read it.

Mayor Jones said that there are some benefits to streamlining the reports, but there are some benefits for the citizens attending the meetings to hear details about what is going on in the City. Jon Bickford said that he felt the same way, he liked hearing from the Department Heads, but they could hit the top three or four key topics in their report. Mayor Jones said that with that feedback, he hoped that the Department Heads would make adjustments as necessary.

Dave McCorquodale arrived at 6:05 p.m.

B. Public Works Report – Mr. Mike Muckleroy presented his report to City Council. Mr. Muckleroy said that they had replaced the photo cell for the security lighting at the Sewer Plant #2, painted all the hydrants at SH 105 west and Lake Creek Village, and they assisted Accurate with the meter change outs for the new meters.

Mr. Muckleroy said that they have begun the street sign replacements to the 9" inch blades on the main roads in the City. Rebecca Huss asked where one of the new signs had been placed so that she could go and look at them. Mr. Muckleroy advised that the closest one to City Hall was at the intersection of Old Plantersville Road and SH 105.

Mr. Muckleroy stated that they had removed the crushed granite from the Community Center restrooms and replaced it with asphalt. Mayor Jones said that was a good thing and a great project.

John Champagne said that the Department had done a great job replacing the French drain on the pathway at Fernland Park. Mr. Muckleroy said that Mr. Don Carter had done that job. Mr. Muckleroy said that it was a trial to see if it would work, and if it does, they will do the same to the other one.

Mr. Muckleroy said the docents reported 595 visitors to Fernland, and they provided 53 tours.

Jon Bickford asked how the lighting project was at Fernland. Mr. Muckleroy advised that the project was now complete. Jon Bickford asked whether it was functional and worked the way that it was supposed to. Mr. Muckleroy said that he had done a walk through with Mr. Mike Newman and the contractor, who showed them the controls and provided them with a book on the system. Mayor Jones said that it looked really good. Mr. Muckleroy said that they had a couple of minor issues, but everything was now working.

C. Police Department Report – Chief James Napolitano presented his report to City Council. Chief Napolitano advised that it had been a busy month with 43 misdemeanors, 1 felony and 470 citations issued. John Champagne said that 470 was a lot of citations.

Rebecca Huss said that she did miss the spreadsheet that Lt. Joe Belmares prepares that shows the calls broken down by type. Chief Napolitano advised that they would put that information back into the report. Rebecca Huss said that she would find that information more useful than all the types of charges.

Mr. Yates stated that of the 52 reports for the month, only 7 were driving or warrant related, which said a lot about the Department. Chief Napolitano said that 98% percent of their calls are from issues outside the City while they are passing through the City. Chief Napolitano advised that the City residents are not the problem.

D. Court Department Report – In the absence of Ms. Rebecca Lehn, Court Administrator, Mr. Yates presented the report to City Council. Mr. Yates advised that officer

Angelina Flores has been reassigned as the warrants officer, and the Police Department will be hiring a new police officer beginning in March.

Mr. Yates said that there were 470 cases filed for a total revenue for the month of $44,702.82.

John Champagne asked about Ms. Rebecca Lehn, Court Administrator. Mr. Yates said that her ankle has improved, but her Father was very ill.

E. Utility/Development Report – Mrs. Ashley Slaughter, Utility Billing Clerk, presented her report to City Council. Mrs. Slaughter advised that the month was pretty typical, but a little low on the permit side. Mrs. Slaughter said that she had assisted Accurate with the new meter software conversion.

Jon Bickford asked whether Mrs. Slaughter had seen any reports and data resulting from the new meters being installed. Mrs. Slaughter said that the meter reads had been done using the new software, which she had to input manually since they were not fully connected. Mrs. Slaughter said that there were several customers that had received larger bills during the conversion, but they were able to get everything sorted out.

Mrs. Slaughter said that the new building permit software had also been implemented, but they are still working out some of the bugs. Mrs. Slaughter said they would only be using the software for projects that are under the new International Building Codes and phasing out the older 2006 International Building Code projects. Mrs. Slaughter said that it would be an easier way to keep everything more organized for her and the inspector.

Dave McCorquodale asked which International Code they were using. Mrs. Slaughter said they use the 2015 International Code and 2014 National Electric Code.

Jon Bickford asked whether the City account consumption was in 1,000 gallons. Mrs. Slaughter said that was correct and noted that there was an error in the report from last month, which has been corrected. John Champagne asked what the City's cost is per

1,000 gallons. John Champagne said that they had come up with a cost basis per 1,000 gallons. Mr. Glynn Fleming said that it was costing the City a little over $5.00 per 1,000 gallons. Rebecca Huss said that included depreciation and five year capital expenditures. Mr. Shackleford said that the cost would be $3.00 without depreciation and capital expenditures.

Mr. Yates said that they are charging Memory Park a residential irrigation cost. Mayor Jones asked whether that was showing up as a line item transfer from General Fund to Utilities. John Champagne said that the consumption is going to be an interesting thing to track and thanked Mrs. Slaughter for including the information. John Champagne said that it would give them a better idea as to what their true cost is to have these beautiful parks. Rebecca Huss said that she felt it was good because if you do not know how much you are using, you can't do anything about it.

F. Water Report - Mr. Mike Williams presented his report to City Council. Mr. Williams advised that they had responded to eight district alerts during 12/18/15 – 01/20/16. Mr. Williams advised that on the 20th of the month Accurate Meters found a water main break caused by the ground shifting and making a break between the two pipes and punched a hole in the water line. Mr. Williams said that they did not know how long the leak had been occurring since it was going directly into a manhole.

Mr. Williams said that this month they had a 76% percent accountability. Mr. Williams noted that 93% percent was pumped through the Catahoula Well and the Wastewater Plant was in compliance.

Mayor Jones asked if Mr. Williams knew where the water went with a 76% percent accountability. Mr. Williams said that they had gone through the main break and they were still installing a good portion of the new meters. Rebecca Huss said that with the new meters, they should have higher accountability. Mr. Williams said that was correct. Mrs. Slaughter said that she had noticed a large increase in water consumption with the meter reads and rereads. Mrs. Slaughter said that the new meters were catching more water usage, with customers seeing higher usage, because in the past

they were seeing 1,000 – 2,000 gallons used and now they are seeing 4,000 to 5,000 gallons used. Mayor Jones said that as the meters age, they show less reading.

Dave McCorquodale asked about the average age of the meters that are in the ground before they were replaced, because when they reach 10 years they start to drop off. Mr. Muckleroy stated that a lot of the meters were over 10 years old. Mayor Jones said that the new meters should provide a lot of accountability.

Rebecca Huss said that she had received the notice that they were smoke testing the lines to check for leaks. Mr. Muckleroy advised that they would be conducting smoke tests tomorrow. Mr. Williams said that the smoke testing would identify sewer leaks, but if there is more water leaking into the sewer, it would identify that too. Mayor Jones asked whether they would be testing mainly in the older section of town. Mr. Muckleroy said that they were going to try to get everything south of Caroline Street, west to the Cowboy Church, and then east to Flagship. Mr. Muckleroy advised that they were saving the schools for a day when they are closed. Dave McCorquodale said that it might be a good idea to look at the trailer park at the east line. Mr. Muckleroy said that they are going to try to do it where they get smoke coming out of every vent stack at every house so that they can identify any leaks. Mr. Muckleroy said that you never know what you are going to find, such as rain gutters flowing into the sewer, etc.

Mr. Williams concluded his report by stating that they had 1.5 inches of rain last month.

G. Engineer's Report – Mr. Glynn Fleming, Associate Engineer, presented his report to City Council. Mr. Fleming reported that the public improvements for Pizza Shack and Kroger are ongoing and he expects that he will be requesting to advertise both projects for bids next month.

Mr. Fleming advised that Capital Project No. 1, which is the Water Plant No. 2 Improvements Project continues to move along and they expect to bid out the project in mid to late April. Capital Project No. 2, which is completion of the waterline across the bridge is currently advertising, and they will receive bids for that project on

Thursday, March 3, 2016. Mr. Fleming advised that he would be back on March 8, 2016 with the bid tabulation.

Mayor Jones asked about the Water Plant No. 2 Project, and confirmed that it would not go out for bids until April 2016. Mr. Fleming said that they would probably advertise mid to late April. Mayor Jones asked if that was due to them still working on the engineering of the Project. Mr. Fleming said that they were through with the engineering and design, but they were wrapping up internal reviews and reviews with TCEQ. Mr. Fleming advised that it usually takes 30-35 days for the review period.

Mr. Fleming reviewed the plan and plat reviews with a few items of note. Mr. Fleming advised that Heritage Place Medical Center drawings have been reviewed and there is a variance request before Council tonight.

Rebecca Huss asked about the plat reviews for the Heritage Plaza, Phase II, where Mr. Fleming had returned his review comments on July 22, and they haven't responded in seven months. Mr. Fleming said that they had responded two weeks ago, advising that they had temporarily paused Phase II with a redesign of sorts. Mr. Fleming said that they might split Phase II to include a Phase III. Mr. Fleming said that they were going to break up the project to have two thirds of the project to come at a later date.

Mr. Fleming advised a preliminary plat submission was reviewed and accepted by the Planning and Zoning Commission Meeting held yesterday for a two acre commercial tract at the northeast corner of SH 105 and Lone Star Parkway.

Mr. Fleming advised that he and Mr. Yates had met with representatives regarding a 19 acre tract on the northern frontage of SH 105 in between Stewart Creek Road and Lone Star Parkway. Mr. Fleming advised that they were looking at some commercial development and possibly mixed use development. Mr. Fleming said that they were in the very early stages, and he would keep Council informed.

Mr. Fleming discussed a possible preliminary alignment of some north/south thoroughfares from SH 105 to Lone Star Parkway. One utilizing a proposed extension

of Emma's Way; and one utilizing a proposed throughway that would be in conjunction to the Montgomery Forest Development and Westway Drive.

Mayor Jones said that there have been some discussions among City staff concerning the extension of Emma's Way to make it go all the way to the Loop, and there are lots of reasons that would benefit folks. Mayor Jones said he just wanted City Council to start thinking about this information and to know that it is being discussed.

John Champagne asked about the Baja Project. Mr. Yates advised that the Baja Project would be on the Agenda for the next Council meeting.

H. Financial Report – Mrs. Cathy Branco presented her report to City Council. Mrs. Branco advised that she had gotten all of the payroll amounts for Mr. Muckleroy and Mrs. Slaughter transferred from the Operating Fund to the Utility Fund. Mrs. Branco advised that this is usually done on a quarterly basis, but she had been delayed this time. Mrs. Branco said that the transfer increased the net Operating Fund income for January from $11,500 to $53,200, and decreased the Utility Fund from $41,500 to $8,000.

Mayor Jones said that from a budgeting standpoint, those two employees are paid by the General Fund. Mrs. Branco said they used to pay them from two separate funds but the IRS could not keep the filings straight. Mrs. Branco said that they decided a long time ago to pay everyone out of Operating Funds and then if anyone needed to be paid from another fund, they would do the adjusting entry and transfer. Mayor Jones asked if the other two employees in Public Works came out of the General Fund. Mrs. Branco advised that they were paid out of the Public Works Fund.

Mrs. Branco said that she was in the process of checking all the adjusting entries that were sent over by the Auditor to make sure that everything follows right in her way of thinking. Mrs. Branco said that once she finishes, she will discuss the Audit with Mr. Yates and try to have everything ready for the March 8, 2016 Council Meeting.

Rebecca Huss asked whether the Auditor was done with the Audit. Mrs. Branco said that she believed that he was, but he still had questions as of Monday. Rebecca Huss

said that last year the Auditor had said that they were going to be right on top of the Audit and get everything done. Rebecca Huss said that this was the second year and the customer service has been quite poor on their part as far as timeliness. Rebecca Huss said that they should have all the questions done at once and then do the Audit.

Mayor Jones said that relative to the comments, are our expectations too high, and was there was a deadline that says that the City has to be audited by a certain time. Mrs. Branco said that she believed that it was 135 days. Rebecca Huss said that if the auditor is fumbling, it could be seen as the City's fault and the bond market could penalize us for not having our act together when it is not our fault it is them.

Rebecca Huss said that the City might consider looking at the audit firm and get a jump on it early, because they have had two years and botched them both. Mrs. Branco said that there were other audit firms out there. Mayor Jones said that the City had been through a few. Rebecca Huss said that they need to change auditors every few years anyway. Mrs. Branco said that there were a lot of auditing firms out there that the City probably has not seen and said that at this point she did not think that any of them were any less expensive than what the City has right now.

John Champagne asked Mr. Yates if he had any thoughts on this matter. Mr. Yates said that he thought that they were being a little too hard on the Auditor. Mr. Yates said that last year the audit was completed in either May or June. John Champagne said that he remembered that there was an issue last year. Mr. Yates said that was correct. Mr. Yates said that the Auditor had done a much better job this year.

Rebecca Huss said that in the terms of the amount of time that Mrs. Branco had to spend was an expense to the City. Rebecca Huss said that if the Auditor would send her a list of questions ahead of time that she could answer and that would be that, then she could get it done.

Mrs. Branco said that she felt that when they come out to do the Audit they should be prepared with the questions that they are going to ask so they can get the Audit done.

John Champagne asked Mrs. Branco if she has discussed this matter with Mr. Yates. Mrs. Branco said that she has talked with Mr. Yates about this matter. Mrs. Branco

said she was being a little hard on the Auditor. Mrs. Branco said that she thought the Auditor had done a much better job this year, as far as putting together the information.

Jon Bickford asked when they begin the Audit. Mrs. Branco said that she has to finalize all the transactions and then normally they start the Audit 45 days after the end of the fiscal year. Mayor Jones said that he thought that they had started before Christmas. Jon Bickford said that was 3 ½ months to complete the Audit. Jon Bickford said that there was a way to fix that by putting some penalty clauses in for not getting things done on time.

Mrs. Branco said that they could get penalized for not having the Audit in on time. Mrs. Branco said that it was the City's responsibility to provide the Auditor with the information that they need and to have a clean Audit. Mayor Jones said that Mrs. Branco has been with the City for a long time and should know what to expect for the Audit, so it should be clockwork on our end. Mrs. Branco said that she did not think that the organization was there, and she knew that he was working on it, and they have some personnel problems. John Champagne said that was not the City's problem.

John Champagne said that Rebecca Huss makes a good point, but they are micro managing, in his opinion. John Champagne said that if staff has not figured it out, whose responsibility is it? Mrs. Branco said that they did not have a problem with the City, she has a problem with them because she did not think that they were organized.

John Champagne said that Rebecca Huss made a point, if the Auditor is not performing, that is up to staff to evaluate. John Champagne said that he is assuming that everything is good because staff has not kicked out the Auditor. John Champagne said that for Council to assess the proficiency of this consultant he felt would be a bit silly, when staff is doing it every day, so if staff chooses not to terminate the firm then they will be responsible for whether the City made the date for the Audit. Mayor Jones said that they can't terminate at this point.

Mayor Jones said that they are supposed to switch every two years, so this would be the year. Mr. Yates advised that the option was after three years. Jon Bickford said that they could chose to go one more year or chose to get someone else. Mrs. Branco said that was correct. Mr. Yates said that he and Mrs. Branco would have that

discussion. Rebecca Huss asked that they please have that conversation. Mrs. Branco said that she knew that they had discussed it somewhat, but had not really had a sit down discussion, which is why she is checking the entries and then she will sit down with Mr. Yates to discuss the information before the March 8, 2016 Meeting.

Mrs. Branco reported that the debt service is due on March 1, 2016 in the amount of $404,000 plus, which is covered. Mrs. Branco said that the letters for the wire transfer will be hand delivered to the bank tomorrow.

Rebecca Huss asked Mr. Muckleroy about the Utility Fund that is showing that the water treatment plants are $7,000 over budget for utilities, which will end up being $18,000 to $20,000 over budget for the year. Rebecca Huss said that she thought that the cost for electricity should be falling, and should not be higher than their expectations. Mr. Muckleroy said that he would look into that matter. Mayor Jones asked if they had added some equipment that they were not expecting. Mr. Shackleford stated that the new well, Water Well #4, is a deeper well and is running more often, which could be some of the cost increase. Mr. Shackleford said that it could also be the cooling tower. Mayor Jones said that was not present this time last year. Rebecca Huss said that when they prepare the budget they will need to make sure that they account for that expenditure.

Jon Bickford moved to accept the Departmental Reports as presented. Rebecca Huss seconded the motion.

Discussion: Dave McCorquodale said that he had one quick questions, and apologized for being a few minutes late to the meeting. Dave McCorquodale said that looking back on the City Administrator's Report, he referred to where Mr. Yates had kept the MEDC minutes, and asked whether Ms. Shannan Reid had attended that MEDC meeting. Mr. Yates advised that Ms. Reid was at that meeting. Dave McCorquodale asked about when Mr. Yates met with the developers, such as the Emma's Way meeting, and whether Mr. Yates brought Ms. Reid to those meetings. Mr. Yates said that he did not normally have Ms. Reid attend those meetings. Dave McCorquodale said that was all the questions that he had.

The motion carried unanimously. (4-0)

3. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION SUPPORTING THE MONTGOMERY COUNTY THOROUGHFARE PLAN.

Mr. Yates advised that County Commissioner Mike Meador had called him two weeks ago to ask City Council for their support because of the potential funding of the project and the important role of the adoption of the Plan to receive the funding. Mr. Yates stated that this is not a binding agreement of the City Council regarding the placing of the roads or financing of the roads. Mr. Yates advised that the City's true Plan will be the City Engineers Mobility Plan that they are currently preparing. Mr. Yates said the City's Mobility Plan will be a more solid plan for the City's streets.

Mr. Yates said that the County's Plan will allow them to be able to plan for streets as subdivisions come before City Council, such as development south of SH 105, it would allow Council to provide for the right of way during the subdivision platting process. Mr. Yates said that the Resolution states that the City supports the efforts of Montgomery County Commissioner's Court in passing the Thoroughfare Plan.

Mr. Yates said that this Resolution would not bind the City in any way to pay or put in any of these roads. Rebecca Huss said asked if it would support how the County has broken the Open Meetings Act rules in terms of how they got the funding or put the Bond projects, and asked if it had any judgement on that matter. Rebecca Huss stated that she thought the Texas Rangers were investigating whether or not the County Commissioner's had violated the Open Meetings Act. Mayor Jones said that he thought that had been resolved. Mr. Shackleford said that he understood the matter was still being investigated. Mayor Jones said that he did not feel that matter should influence Council's decision regarding the map.

John Champagne asked what the point was for the City to support or not support the Plan. Mr. Yates said that it helps the City and the County in receiving funds through the Houston Galveston Area Council for funding the roads. John Champagne asked whether Montgomery County would receive the funding. Mr. Yates advised that the City could receive funding for projects that are inside the City, and the County would receive funds for the projects in their

area. John Champagne asked who would be dispersing the funds. Mr. Yates advised the funds would be disbursed by the Houston Galveston Area Council Committee. Jon Bickford asked to confirm that there would not be any commitment on the City's part for the roads that are detailed in the Plan. Mr. Yates said that was correct, the City would not be responsible for funding the roads.

Dave McCorquodale said the reason he is not in favor of a Resolution that supports this Plan is because it looks like they are just going to plan on a bunch more new roads, but when they get locally in the enlarged area he does not see anything that reflects the nature or scale of the City of Montgomery. Dave McCorquodale said he sees a whole bunch of what they deem a County level thoroughfare, which their definition is a 4-6 lane road carrying traffic both ways. Dave McCorquodale said if someone asked him how this number of 4-6 lane roads in and around our City was going to either improve the quality of life or serve as an economic advantage to the City, he did not know if he could answer them.

Dave McCorquodale said that he felt that he did not have a blanket objection to any of this, but personally he felt that if he did not voice some type of a concern now, it will go from this stage to construction drawings relatively quietly. Dave McCorquodale said that he understood that this Plan would help secure right of ways and things like that, but if you look at it from another way, and these are very general, how they will be securing right of ways.

Mayor Jones said that on the blown up local map it shows that they would like to loop all the way around town, and based on the City's traffic issues, it would be beneficial. Mayor Jones said that there would be roads to the south of the City that would cut over to FM149 that would keep people from having to come through town. Mayor Jones said that the City does get a say on what they get locally, because through the thoroughfare plan they are participating with Montgomery County Precincts 1 and 2. Mayor Jones said that the City's input will be listened to and most of this Plan is outside the City.

Jon Bickford asked if the Mayor was suggesting that planning is already underway for some of these thoroughfares. Mayor Jones said that what he had mentioned was more local and would be a City action, not a County action.

John Champagne asked the City Attorney what would be the main reason for garnering support through Resolutions by the County, and what would be the negative if the City did not participate. Mr. Foerster said that he would like to suggest that City Council table this item and invite either the Commissioner or someone from the County to come and answer Council's questions. Mr. Foerster said that if he is being asked to speculate, he is sure that there are H-GAC grants out there that may be available, if there is local support for certain proposed thoroughfares. Mr. Foerster said that right now they do not know exactly what is on the priority list. John Champagne asked who determines the priority list. Mr. Foerster said that ultimately it would be Commissioner's Court. Mr. Foerster said that in his experience, Commissioner's Court tries to share the wealth and make sure that each Precinct gets some portion of that grant and other grants. John Champagne said that it was similar to the San Jacinto River Authority.

Mr. Foerster said that his recommendation would be to maybe table this item and either invite County Commissioner Mike Meador or somebody from the County Engineer's Office to come before Council and explain this Resolution with a little more detail so that they can have a better understanding of the Plan. Mr. Foerster said that Dave McCorquodale's concern is a righteous one and if they support this Resolution, as it is currently proposed, are they not saying that in the future the City supports the right of way at a particular location around the City of Montgomery. John Champagne said that is absolutely correct.

Jon Bickford stated that was why he asked if City Council voted in favor of the Resolution, does that mean that they are sponsoring the roads as they are on this map. Jon Bickford said if the answer to his question is no, then will the City get funds for streets/roads that they could use for other streets/roads that are not on the map. John Champagne said that as he understands it, that would be determined by the County Commissioner's. Mayor Jones said that most of the streets are outside the City limits, and the City would be indirect beneficiaries of those projects. Rebecca Huss said that then they would not need the City if it is outside the City. John Champagne said that he failed to see where the City's participation has some merit.

Rebecca Huss said that she would also like to point out that the current improvement where FM149 is being widened, is not necessarily an improvement to downtown businesses. Rebecca Huss said that the businesses feel like it will hurt them because they will have traffic whipping by them and their buffer is much shorter. Rebecca Huss said that this is a project that is

happening completely without any input from government, businesses or the Historical District. Mayor Jones said that was not true, stating that project has been discussed for many years and they have held many meetings with people from downtown to discuss the matter. Mayor Jones said that it is a State highway. Mayor Jones said that they listened to the City's concerns and tried to accommodate the concerns as best as they could, but their job is to move traffic. Rebecca Huss said that it proved her point that stuff just happens. Mayor Jones said they can't stop it because we have a quaint little downtown.

John Champagne said that he just wanted to understand what being part of the Resolution brings to the party. Mayor Jones said it brings good will. John Champagne said he is looking at Baja Street, where they did a great job. Mayor Jones said that is true, maybe they need a Resolution for Baja Street. John Champagne said that was fine with him.

After discussion, John Champagne moved to table action on this item. Dave McCorquodale seconded the motion.

Discussion: Mayor Jones asked Mr. Yates to contact either one of the Montgomery County Commissioners to come and present the information to City Council. Mr. Yates advised that he would contact the County Commissioners.

The motion carried unanimously. (4-0)

4. Consideration and possible action regarding amendment to Jones & Carter EJCDC Contract pertaining to Milestone Development.

Mr. Fleming advised that after review of the Contracts for both Milestone Development (Kroger) and Pizza Shack by the Texas Department of Agriculture, the State reviewer took no issue with anything material to the contracts, however, they did highlight that there was some language that was missing that they would like to see related to Federal Civil Rights language, with very specific wording related to an equal opportunity clause.

Mr. Fleming said that the reviewer had requested that they add that language in to the Contract, which they agreed to do. Mr. Fleming said that it does not materially alter anything in terms of the Contract.

Jon Bickford asked if it added any cost to the City. Mr. Fleming advised it did not. John Champagne asked whether the Civil Rights wording was addressing specific ethnic groups. Mr. Fleming advised that was correct, it is the nondiscrimination clause. Mr. Fleming advised that the new Form 1295 has also been included, which is now required to be filed with the Texas Ethics Commission disclosing all interested parties.

Jon Bickford moved to accept the proposed amendment to Jones & Carter EJCDC Contract pertaining to Milestone Development. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding amendment to Jones & Carter EJCDC Contract pertaining to Pizza Shack Development.

Jon Bickford asked to confirm that this would not add any cost to the City. Mr. Fleming advised that was correct.

Jon Bickford moved to approve the amendment to Jones & Carter EJCDC Contract pertaining to Pizza Shack Development. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action on final plat submission and construction drawings for Pizza Shack.

Mr. Fleming advised that they reviewed the plat late last year and made comments. Mr. Fleming advised that they have received the revised final plat submission and stated that all review comments have been satisfactorily addressed, with some minor text corrections in the signature blocks, otherwise it is complete and in good order and in keeping with the Code of Ordinances.

Dave McCorquodale said that they only have one area on the plat with the varying buffers on either side. Mr. Fleming said that the building setbacks, vegetative buffers and utility easements are shown. Mayor Jones said that the property was a funny shape. Mr. Fleming said that it was largely driven by geography and the western property line.

Dave McCorquodale asked about the construction drawings. Mr. Fleming said that he had received those late last week and it appears that all review comments have been satisfied. Mr. Fleming said that in conversations with both the design engineer and contractor for the project, they have indicated that they are still in somewhat of a holding pattern while they work out some minor engineering items on the building plan and possibly some drainage items on the civil site plan, otherwise he takes no issue with either one of the submissions. Mr. Fleming said that in order to keep the project moving along, he had placed it on the Planning and Zoning Agenda yesterday for approval, which they did approve and passed on to City Council.

Mr. Fleming said that his request would be for City Council approval with some minor corrections on both the plat and any revisions to site drainage would need to be accomplished to evaluate their engineering. Rebecca Huss asked whether they would need to come back before City Council to approve the drainage plans. Mr. Fleming advised that they would not, unless there was a significant change to the site plan, which would require them to come back to Council.

Dave McCorquodale asked whether onsite detention required for a project like this with a proximity to Stewart Creek Lake. Mr. Fleming advised that there would not be any onsite detention, because their drainage would flow into the tributary and creek.

Dave McCorquodale moved to approve the final plat submission and construction drawings for Pizza Shack, pending comments from the City Engineer being satisfied. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action on final plat submission for the King Land.

Mr. Fleming advised that they had reviewed this plat last year and returned it with comments. Mr. Fleming advised that the final plat had been returned to him in the last few weeks. Mr. Fleming said that he has reviewed the plat and all the comments have been satisfactorily addressed and he has no issues with the final plat. Mr. Fleming advised that this was a subdivision of an existing parcel of land.

Rebecca Huss asked whether the gravel drive went through Reserve B and into Reserve C that will have a permanent easement, or do we care. Mr. Fleming said that they do not care about the easement because this is located in the un-zoned extraterritorial jurisdiction of the City, and does not really qualify as what they would consider a flag lot, because it is actually a full width easement or front lot that the driveway runs through. Mayor Jones said that it could be trailer houses. Mr. Fleming advised that this had gone before the Planning and Zoning Commission yesterday and they approved the plat.

Rebecca Huss said that buildings are shown in the subdivision and asked if they really reflects the facts on the ground. Mr. Fleming said that was correct, and they are all existing structures.

Dave McCorquodale moved to approve the final plat submission for the King Land, as submitted. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action on Utility and Economic Feasibility for Waterside Estates.

Mr. Fleming requested that this item be deferred until March 8, 2016. Mr. Fleming advised that the study was largely complete, but he had just received the anticipated home and lot values this morning, which precluded him being able to complete the financial information.

John Champagne moved to table this Agenda Item 8. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action on L Squared Engineering request for revision to City approved paving improvements for West Side at the Park Development.

Mr. Fleming advised West Side at the Park Development is a residential development located directly across SH 105 from City Hall, which includes 11 lots that wrap around the north side of the Park on Caroline Street, and then down the west side on Shephard Street. Mr. Fleming stated that the project was designed by L Squared Engineering, and was approved by the previous City Administrator and previous City Engineer in 2014.

Mr. Fleming stated that most of the water, sanitary sewer, drainage and paving improvements have been completed, and L Squared Engineering called for a final walk through in December. Mr. Fleming advised that when he conducted the walk through, there was a handful of punch list items that have been included in the materials presented.

Mr. Fleming said that an item of particular interest was number 22 on the list, which identifies a proposed completion or expansion of paving on Shephard Street, north of SH 105. Mr. Fleming advised Council that he had provided them with a couple of exhibits, the first one being a current layout of Shephard Street as is, with the color green displaying what the existing asphalt paving, and the blue shading represents the expanded asphalt paving. Mr. Fleming then went to the next page, which was a third area shaded in orange, indicating what on the approved construction drawings was intended to be full width concrete paving. Mr. Fleming said that the item identified on the punch list is that paving has not been completed to date. Mr. Fleming said that the third display that he has is a photo of the area as it appears today. Mr. Fleming advised that it was the intersection of Shephard Street and Caroline Street looking south to SH 105. Mr. Fleming advised that on the left side of the photograph you can see that the existing asphalt paving and the expanded paving dead ends into the commercial reserve at SH105.

Mayor Jones said that he understood that the last 200 feet is supposed to be concrete. Mr. Fleming said that was correct, according to the drawings, it was intended to be full width concrete. Mayor Jones asked what they were considering. Mr. Fleming said that he had identified the item on the punch list as an outstanding item that needs to be completed prior to City acceptance.

Mayor Jones said that Mr. Levi Love wanted to speak to this issue. Mr. Love said that Mr. Fleming had very well laid out what was going on with the project. Mr. Love said that essentially everyone was here when they got this approved and they left that meeting thinking

that the paving of the portion of the front of the commercial tract was contingent upon the commercial tract. Mr. Love said that in their response on June 24, 2014, which he believed was attached to the letter. Mr. Love said that they basically stated in the response that it was their understanding that the development of the portion in front of the commercial tract, and the subsequent TxDOT Permit, would be contingent upon development of the commercial tract. Mr. Love said that the reason for that was because that was a significant cost that really could only be justified by the development of the commercial tract.

Mr. Love said that by putting in asphalt that they did, and once again they are not trying to get anything by the City, but they left that meeting with the understanding and also their meetings with Bill Kotlan, this would be the accepted route to go on this. Mr. Love said that they added all the widening that they were supposed to do along the residential, and he believed that Jon Bickford and John Champagne all had a concern about parking and the street not being wide enough, so they did everything that they were supposed to do on that area. Mr. Love said that it is just the area in front of the commercial tract, they would like to wait until they get the commercial tract developed, and in lieu of a bond or any kind of financial guarantee, they would like to withhold any approvals or Certificate of Occupancy on the commercial tract until all the obligations are met, planned for or bonded. Mr. Love said that was their proposal to City Council so they won't have to do the concrete right now.

Mr. Love said if they can get the right commercial leverage there then maybe they can go to the Montgomery EDC to seek some assistance, so there are some options there, or they can get some commercial development in there to justify the road.

Mayor Jones said that he has been up and down that road many times and it just seems so strange that you can be driving along and suddenly you do not have any road anymore. Mr. Love said that he thought that they could stripe that area for parking for the meantime, or put in a transition. Mayor Jones said that they could make the pavement blend in with the road by adding a little more pavement.

Jon Bickford said that it does not look like a big thoroughfare today, but it will be more of a thoroughfare when there are homes and the people that live there will know about the road, but the visitors will not. Jon Bickford said that the current road looks very dangerous to him. Mr.

Fleming said that he would identify it as a potential safety concern and he would be remiss not to call it out before the City accepts the road as their own. Jon Bickford said that he thought there should be a guardrail or something.

Mr. Love said that he felt striping the area as parallel parking would be a solution, which is the intent and spirit of the main argument that they had before when they wanted on-street parking available for any residents. Mayor Jones said that would be temporary parallel parking. Mr. Love said absolutely, it would be temporary.

Rebecca Huss asked what the expected timeline for the commercial tract. Mr. Love said that they did not have a timeline yet. Rebecca Huss said that it could be 5 or 10 years. Mr. Love said that there has not been any significant interest in the commercial tract yet. Mr. Love said that he could speculate, but it would only be a guess. Rebecca Huss asked what would be the cost of extending the asphalt as a temporary measure. Mr. Love said that it would be a significant cost because the street tie in with TxDOT is not sufficient to accommodate the full width of the asphalt. Mayor Jones said that he did not see a reason to build the concrete street, but he would like to see a gradual transition.

Jon Bickford said that this idea is a pretty big change from what was presented when they agreed on the street because it was going to be 28 feet wide, but now it is going to be 28 feet wide until you hit the grass. Now they are going to do something so that people don't drive off into the grass until some indeterminate time that they might put something commercial at that location. Jon Bickford said that he did not like it and he did not think that was what they agreed on. Rebecca Huss said that she understood the economic end of it, but if there is an option where the striping of the area at the end had signage as well, such as "the road ends" or something like that, or make it contingent on it actually working. Rebecca Huss said that if the street is not safe then they need to address the matter.

Jon Bickford said that his frustration is that they agreed on this in June. By their own admission they had an understanding and here they are six months later. Rebecca Huss said that it is 18 months later. Mr. Love said that it has been 18 months and their understanding when they left that meeting, and what they had documented in their response letter, was that they did not have to build the road until the commercial tract developed.

Mr. Fleming said that to be fair they were pretty matter of fact with specific dates when this matter was taken up in open Council Meetings. Mr. Fleming said that he went back and checked the minutes for those meetings, and there are not mention of it. Rebecca Huss said that they were decidedly abbreviated back then. Mr. Love said that they were, they compared recent minutes with those minutes, and had they had the same detail they think it would have been in there. Rebecca Huss said it could have been more confusing because she seemed to recall there was a lot of back and forth. Mr. Love said that they had requested a variance on streets and did not get those, and requested a variance using asphalt because the existing road was asphalt, which they did get that variance. Mr. Love said that this matter was just a part of the discussion that was not really variance worthy at the time.

John Champagne said that he would like to defer personally to our engineering group to have some suggestions as to make this less apt to have issues in terms of accidents or mishaps, and submit that, because the way that it now is not good. John Champagne said that if he made a motion for the engineering group to discuss a modification of this design to make it safer for traffic and pedestrians.

Mr. Yates said that in the L Squared letter dated February 17, 2016, the engineers say that in lieu of the immediate completion of the paving in question, the design engineer shall submit a traffic control plan for review and approval by the City Engineer, which includes pavement striping on the non-travel lane and installation of a Type-3 barricade at the southern terminus of the expanded asphalt paving. Mr. Yates said that would be a standard traffic control device. John Champagne said that would be his motion. Mayor Jones said that they still needed to ease people over, you can't just put up a barricade. Rebecca Huss said if it was parking you could. John Champagne said that once again he was going to defer to the professionals.

Mr. Fleming said that first and foremost this is an outstanding item on his punch list, which will preclude that from being closed out and accepted by the City. Mr. Fleming said that he has two recommendations, one would be to pave the road as designed and approved by the City. Mr. Fleming said if Council chose not to go that route, they need to do something to mitigate the concerns discussed, by at least some striping on the pavement and a Type-3 barricade. Jon Bickford said that if the proposal is to not follow through with what was approved by paving the whole thing and finishing the last part with concrete, then it sounds

like they need an alternate. Rebecca Huss said that they also need to have some type of language that makes it clear that the concrete comes with the Certificate of Occupancy or construction drawings with the commercial insert. Mr. Fleming said that it should be completion of the paving as it was designed will become necessary at such time as the commercial tract builds out. Mr. Fleming said that they need to be clear that the Certificate of Occupancy offered to that commercial tract until that has been completed.

Jon Bickford said that they need to make sure that language is registered so that if anybody buys that property we don't come back here with some big surprise that they did not know they needed to do that, can they have a waiver, because the answer would be no. Mayor Jones asked whether that would be covered somewhere else.

Dave McCorquodale said that a couple of the points that he recalled from that time was some of the concern over residents living on Caroline Street with increased traffic, and this was going to be a new ingress/egress to this neighborhood. Dave McCorquodale said that there was merit to both sides, but in particular, one of the concerns was with the construction traffic, but as they get to a point of construction of the commercial tract, with the homes in place, should we as a City look to see whether this road should be widened prior to the construction of a commercial tract with the 11 homes there. Dave McCorquodale commented that with those 11 homes and then with commercial construction, should they take care of the road before the construction takes place, but like John Champagne, he would defer to the professionals.

Mr. Fleming said that as long as the conditions are tied to the Certificate of Occupancy, from a financial standpoint they would almost have to finish the paving and build out the tract, you can't build out the commercial pad site and allow it to sit on that frontage while you decide what to do with the paving. Dave McCorquodale asked about the Type-3 barricade. Mr. Fleming said that it was a large 3-post 3-4 rail orange and white wooden barricade with reflectors.

Mr. Love said that they could sort out what type of barricade would be best for that location. Jon Bickford said that it frustrated him that they are this far and now they want to come in, because he can't imagine that they believe this road is what the City approved. Mr. Love said that they did in 2014. John Champagne said that he did not remember approving this action.

Mr. Yates said that they could do some angled striping toward the end that would direct people away from the barricade. Mayor Jones said that he thought that would be a good idea, and he would assume that the City Engineers could come up with a safe way to do that.

John Champagne moved that in lieu of the immediate completion of the paving in question, the design engineer shall submit a traffic control plan for review and approval by the City Engineer, which includes pavement striping on the non-travel lane and installation possibly of a Type-3 barricade, if needed, at the southern terminus of the expanded asphalt paving, the finishing of the road in concrete shall be done prior to construction of the commercial tract. Rebecca Huss seconded the motion.

Discussion: Mr. Yates asked if John Champagne meant that it would be "prior to the awarding and issuance of the building permit". John Champagne said that whatever it would take. Jon Bickford said that he would say that "prior to the award of the building permit".

John Champagne accepted the verbiage as stated by Jon Bickford and amended his motion to state "in lieu of the immediate completion of the paving in question, the design engineer shall submit a traffic control plan for review and approval by the City Engineer, which includes pavement striping on the non-travel lane and installation possibly of a Type-3 barricade, if needed, at the southern terminus of the expanded asphalt paving, the finishing of the road in concrete shall be done prior to the award of the building permit for construction of the commercial tract". Rebecca Huss seconded the amended motion.

Discussion: Mayor Jones stated that the engineers would work out the appropriate information.

The motion carried unanimously. (4-0)

10. Consideration and possible action regarding Agreement with Kevin Barnes pertaining to a parking variance at his building located at 401 College Street, Montgomery, Texas.

Mr. Yates stated that in February, 2014, Mr. Barnes requested a variance which was granted and an agreement was put together regarding parking at his building at 401 College Street. Mr. Yates advised that Mr. Barnes never signed the agreement. Mr. Yates said that now there is a hanging issue, regarding his off street parking spaces for his building that he is nearing completion.

In December, Mr. Yates advised that he went to see Mr. Barnes and suggested to him that he make the payment and sign the agreement. Mr. Barnes advised that he could not afford the $5,000. Mr. Yates said that Mr. Barnes has proposed giving the City $2,500, which he has submitted a check that is being held pending Council action, and another $2,500 on or before May 31, 2016 and the remaining $5,000 to be paid either at the completion of his building or by December 1, 2016, whichever comes first. Mr. Yates said that the proposed amendment would not affect the City because nothing would have to be done until the funds were paid by Mr. Barnes.

Dave McCorquodale asked if they said no, would that decision be final. Mr. Yates said that was correct. Mayor Jones said that the allowance of the variance allowed the building to be built. Rebecca Huss said that Mr. Barnes financial situation allowed him to get several other variances as he was building because if the project did not work, they would be left with a half constructed building in the middle of downtown. Rebecca Huss said that she believed that they had already extended Mr. Barnes quite a few adjustments to what they would have normally gotten. Rebecca Huss said that she understood what Mr. Yates was saying, this does seem the easier route, but she felt that there should be some penalties attached to this action, such as adding fines for missed dates and the total amount and if he drags this out for another year there should be some cost or incentive for him to comply. Mr. Yates said he did not know how the City had been penalized.

Jon Bickford said that he is going to have people working at that building and where are they going to park. Jon Bickford said that the funds were to pay for the parking and they will need to have parking available for that building. Jon Bickford said that he agreed with Rebecca Huss that they need to do something quick and he needs to pay the piper. Jon Bickford said that the City's loss is that they are going to have to provide parking spaces when he starts renting space in that building. Jon Bickford said that now the City won't get the other $5,000

until the building is at least 50 percent full. Mr. Yates said that it is occupancy status, it does not have to be rented.

Rebecca Huss moved to approve the agreement adding a $1,000 penalty if Mr. Barnes misses the May 31st deadline, and an additional $2,500 penalty if he missed December 2016 date, which ends up being a 30 percent penalty. Jon Bickford seconded the motion.

Discussion: Mayor Jones asked the City Attorney if the penalty clause was legal. Mr. Foerster said that it is an agreement that you can put what you want into it, because it is not set out in an ordinance. Mr. Foerster said that if Mr. Barnes is willing to sign the agreement and the two parties are in agreement, then he felt it would be enforceable. Mayor Jones asked if Mr. Barnes refuses to sign the agreement because he doesn't like the penalty, then what can they do. Dave McCorquodale said that he thought they would go back to the original agreement, which he technically did not sign, but accepted it when he pulled the construction permit. Mr. Foerster said that he won't get the Certificate of Occupancy until he has done something to satisfy the City. Mayor Jones said that there is still a Certificate of Occupancy to be done. Mr. Yates said that was correct.

The motion carried unanimously. (4-0)

11. Consideration and possible action regarding purchase of large diameter AMRS water meters.

Mr. Yates advised that when they replaced the residential meters and the 30 larger meters, they found four 1½ inch meters at a cost of $950 that could not be retro fitted for a total of $3,400. There are also 32 two inch meters at a cost of $950 each for a total cost of $30,400, and one four inch meter at a cost of $5,500. Mr. Yates said that they were proposing not to change out the four inch meter because it is a good meter and is easy to read. Mr. Yates said that if there is a problem with the four inch meter, Mr. Muckleroy has advised that he can easily work on it. Mr. Yates said that they were asking if City Council wanted them to manually read those meters or to purchase the two inch meters and the 1 ½ inch meters for a cost of $33,800.

Mayor Jones said that the reason that they missed the meters was because they just did not know how many of the meters or what size was in the holes. Mr. Yates said that was correct. Mayor

Jones said now they know how many meters and what size they are on a list. Mr. Yates advised that was correct.

Jon Bickford asked if the request for proposal was up to the bidding contractor to survey the meters. Mr. Muckleroy said that the contractor did not survey the meters beforehand, so they did not know how many there were. Mr. Yates said that the bid was so much per meter. Dave McCorquodale asked if these meters were relatively new meters or were they old meters. Mr. Muckleroy said it was a combination of meters, but they fall under the large diameter meters that are generally running more water through them. John Champagne said that it appears that the payback could be pretty quick. Mayor Jones asked Mr. Yates if his proposal was to buy the meters at $950 x 32 meters and then the City will install them as they get to them. Jon Bickford said that $950 was the installed price. Mr. Yates said that is what he is recommending that they get them installed. Mr. Yates said that they will use the Capital Improvement Bond money to pay the difference. Mayor Jones said that account has approximately $201,000 that was for water projects. Mr. Yates said that they have already spent $120,000 of that amount on the meter installation that has been completed. John Champagne asked if they wanted to replace the four inch meter. Mr. Yates said that he did not want to replace that one. Mayor Jones asked what the price was for the four inch meter. Mr. Yates advised that it was $5,500. John Champagne asked how often the four inch meter is checked and calibrated. Mr. Muckleroy said that he did not know if that meter or any of them had ever been calibrated. Mr. Fleming said that with the meters, they are mostly about usage versus age, they replace the residential meters at one million gallons and the commercial larger diameter meters might run anywhere from 3-5 million gallons. Mr. Fleming said that monetarily it makes sense to pull them out of the ground every five years or so and test and recalibrate the meter. John Champagne asked what they were looking at for this four inch meter and how long has it been since it has been pulled and recalibrated. Mr. Muckleroy said that he was sure it was the original meter that has probably never been calibrated. Rebecca Huss asked how old the meter was. Mr. Muckleroy said it was between 8-10 years old.

Jon Bickford moved to upgrade and replace all the meters to complete the project, including the four inch meter, for a total of $39,350, to be paid for out of the Capital Improvement Bond Funds. John Champagne seconded the motion.

Discussion: Jon Bickford asked to confirm that would give the City all electronic readability of every meter that they know they have. Mr. Yates advised that was correct. Mr. Muckleroy said that the only two that they will manually read are the two meters at the Water Wells.

The motion carried unanimously. (4-0)

Mr. Williams advised that the meters at the Water Wells were calibrated twice a year by GM Services.

12. Consideration and possible action regarding naming of the streets on SH 105 approaching the Montgomery High School Sports Complex.

Mayor Jones advised that this item was tabled from the last meeting.
Mr. Yates said that they changed the item to streets because he was told that the road on the west side is also a public road, but he had not researched that information yet so he was sure about that road.

Mr. Chris Cheatham, who was present, advised that in a Development Agreement between the City, Montgomery ISD and himself, as part of the trading that went on, MISD had given up those two 60 foot strips to the City, as part of the Agreement. Mr. Cheatham said that they were about to develop the northwest corner of the driveway. Mr. Cheatham said that he owns property between the two driveways. Mayor Jones asked whether there would be curb cuts off of those streets. Mr. Cheatham said that would be correct.

Mr. Yates advised that in the pack there was a listing from Mr. Foerster of possible names for the streets based on local historical significance.

Mr. Yates said that even though the Council's thought is to select a historical name, to his mind, these streets would be serving a specific destination point, namely the stadium, and the names of the streets should designate that destination point, so Victory Lane or something like that seemed to apply in this case.

Rebecca Huss said that she did disagree with Mr. Yates on his point, such as naming the street to the Post Office after the first Post Master, because if there was already a street of the same name,

you would have to name it something else anyway. Rebecca Huss said she did not think that the destination had to link to the name. Mayor Jones said that the streets exist because of the stadium and the City acquired them because of Mr. Cheatham and the MISD Agreement.

Mr. Foerster asked whether Montgomery ISD had been contacted to see if they had a suggestion. Rebecca Huss said there only comment was to make sure that since the stadium would be used by both the current high school and the new high school that they would not name it to conflict with the schools. Mayor Jones said that they need to stay away from the reference to "Bears".

Rebecca Huss said if they have two roads, she liked the idea of naming them after two suggested school teachers, such as, Imogene Giesinger.

After discussion, Rebecca Huss moved to nominate one street to be named Giesinger after Imogene Giesinger, and the other street to be named Washington after Timothy Washington, to honor educators. Jon Bickford asked to clarify that it was just going to be the last name of the person. Rebecca Huss said that was correct. John Champagne seconded the motion.

Discussion: Mr. Muckleroy asked whether they would be streets or drives. Jon Bickford asked whether all those letters would fit on the street signs. Mr. Muckleroy said that they would fit. Rebecca Huss said they could be named Giesinger Gate and Washington Way. Mayor Jones asked the City Engineer what would be appropriate, street or drive. Mr. Shackleford said that his only suggestion is that if they name something Boulevard, make sure that it is one. City Council concurred that they would both be named "Drive".

After discussion, Rebecca Huss accepted the amendment to her motion, as Council concurred, that the streets would be named Giesinger Drive and Washington Drive. John Champagne seconded the amended motion, the motion carried unanimously. (4-0)

13. Consideration and possible action on request for variance to required minimum driveway spacing at the proposed Heritage Place Medical Center.

Mr. Fleming advised this is a current plan review that is located at the northeast corner of SH105 and Houston Street. Mr. Fleming said that this is the proposed Heritage Place Medical Center that is showing two different points of egress one on Houston Street and the other on SH105. Mr.

Fleming said that the City's Code has qualifications for minimum driveway spacing. Mr. Fleming advised that neither of the driveways meet the minimum qualifications for the proposed construction plans.

Mr. Fleming advised that there is a clause in the Code that states if the City won't deny points of egress to a tract that lacks sufficient thoroughfare frontage to make those spaces, which is the argument here in at least one of these cases. Mr. Fleming said that the developer is requesting a variance for their driveways based on that clause in the Code.

Mr. Fleming said that the developer had presented this information to the Planning and Zoning Commission last night. Mr. Fleming said that the Planning and Zoning Commission chose to approve the variance request, but did so with a very stern admonition that we look very closely from an engineering stand point and work anyway they can with the developer to come up with the best possible solution where Houston Street is concerned. Mr. Fleming said the issue on SH105 would largely be settled by TxDOT. Mr. Fleming stated that it is his understanding that the developer has already applied for and received a driveway permit from TxDOT, based on the proposed curb cut and location shown. Mayor Jones said that it probably does not meet the City's requirements. Mr. Fleming said that it does not meet the City's requirements. Mr. Fleming said that in the case of SH 105, the approval from TxDOT probably supersedes the City's Code. Mayor Jones stated that whole general area probably does not meet those requirements.

Mr. Fleming said that the real issue at hand is the variance request as it pertains to Houston Street. Mr. Fleming said that there were some different suggestions made last night at the Planning and Zoning Commission Meeting, such as, looking at what it would take to widen Houston Street. Mayor Jones said that street has to be widened. Mr. Fleming said that it is a 40 foot right of way currently, however, there is only 18 feet of paving, very similar to what Shephard Street looked like originally. Jon Bickford asked if they did widen, could they afford to use concrete. Jon Bickford said that street is very narrow. Mr. Fleming said that there was a lot to consider regarding widening the road. There are residential areas just north of this tract that would abut up against them and there is a substantial amount of clearing that will have to be done on that side of the right of way, with existing power poles. Mr. Fleming said if they were to widen the other way and go toward the Park, there might be more room, while there would still be some clearing involved, it is City owned land.

Jon Bickford asked if there was no other option to have the two egress points in and off of SH105. Mr. Fleming said that he did not think that it was absolutely to have them both off of SH105, and the developer has expressed some concerns about the safety issues with the egress on SH105. Rebecca Huss said that turning left onto SH105 would be very difficult and it would be stupid not to let people use the traffic light.

Mr. Fleming said that the Planning and Zoning Commission approved the variance request as it was submitted and allowed them the ability to work with the developer and design engineer to come up with the best solution. Mayor Jones asked what the solution was for widening the road, stating that it had to be done. Mr. Fleming advised that the project is strictly in the review phase, and they have not reviewed or approved the preliminary plat nor any construction drawings for the project. Mr. Fleming stated that if the only reason for widening the road is for this development, then they would have a pretty good case to go to the developer and discuss an agreement for the road in return for their egress onto Houston Street. Jon Bickford said that there is no other possible commercial development on that part of Houston Street. Jon Bickford said that if they need to have the street widened to let people in and out, then he felt that it would be his case that the cost would need to be borne by those who are going to benefit the most, which is the developer.

Rebecca Huss said that it looks like the parking lot goes directly up the boundary or is there a second piece of property to the east of the tract. Mr. Fleming said the piece of property to the east was a separate owner. Rebecca Huss was wondering about the vegetative barrier between the properties. Mr. Fleming said that this is where you abut both the Historic District and commercial/residential zone. Dave McCorquodale asked if that called for a 25 foot landscape buffer. Mayor Jones said that it was only a visual barrier. Mr. Fleming said that despite the fact that this tract is commercial, it has been used as residential for some time. Mr. Fleming said that when they move forward with any replat all the building setbacks and utility easements will have to be met.

Rebecca Huss then stated that the drawing as planned looks like it does not include the two giant oak trees on front of the property. Mr. Fleming said that was a fair statement. Rebecca Huss said that despite the fact that was something that the City had stated that they were specifically interested in preserving, the drawing does not include the trees. Mayor Jones said that the drawing would not allow those trees. Rebecca Huss said that they could swap the layout over so that they could have the parking lot on the other side and park underneath the trees. Mr. Love said that they did make

every effort to go around the trees, but the frontage property is expensive property and they were already working with a parking constraint. Mr. Love said that this was going to be a medical plaza with different doctor's offices. Rebecca Huss asked if the next owner over is Mr. Skinner. Mr. Love said they looked at the tract and they followed the direction of their client and what his needs were for their tenants, and they could not make it work. Mr. Love said that the problem is those are huge trees. Rebecca Huss said that is the problem, those trees are really beautiful. Mayor Jones said that you have to protect the whole drip line for the trees, and that takes up a lot of space. Rebecca Huss said that they make impervious parking surfaces, so it is not completely impossible. Mayor Jones said that you definitely want the building to be the feature to see off of SH105, not the parking lot. Mr. Love said that they could not put in on-street parking on SH105 because that would be a total mess, so they moved the parking in the back and moved the building close to the street. Mr. Love said that in his experience, you can't park on roots of a tree and have the tree live, even using a pervious cover. Mr. Love said that you can do it in Austin, but not here, with native live oak trees that are more durable. Mayor Jones said that he thought that based on this developers history, there will be plenty of vegetation going on there. Mr. Love said that the developer has stated that they will do that. Mr. Love said that in the past, Mr. Cheatham on the apartment project and with Stylecraft, have set aside about 3 acres of property that had nice tree stands between the two developments. Mr. Love said that Mr. Cheatham does actively try to save trees. Mr. Love said that they have worked on this land plan for a long time.

Mr. Love said that they made every effort that they could to meet the ordinance requirements, but they do not have the frontage to be able to have the length. Mr. Love said that he even questioned whether they had a variance, because the ordinance specifically states that if you don't have the width you don't have to. Mr. Love said that TxDOT has stated where their driveway locations are to be.

Mayor Jones said that he was sure that they have had discussions about Houston Street needing to be widened and asked what their thoughts were about that. Mr. Love said that he felt there needs to be some kind of partnership with the City. Mr. Love said that their reason is this area was zoned by the City as commercial, and it has been invested in as commercial property because it has City frontage and City utilities, located on the corner with a controlled signal light. Mr. Love said that the fact that Houston Street is small has not played into a lot of the decisions that have been made. Mr. Love said that technically he felt that right now, the building is contained on one existing tract and is not crossing a tract line. Mr. Love said Houston Street is a little bit of a problem that they

can all contribute to solving. Mr. Love said there are other tracts of land around the City that have large traffic counts, with 18-20 foot roads, so they keep coming to the area around the park.

Dave McCorquodale said that to him there was an issue right now, when someone wanting to pull out of Houston Street onto SH105, no one is turning into Houston because there is essentially only room for one car at that spot. Dave McCorquodale said that he loves the park, but he would be more in favor of going into the park for land more so than going into private property. Jon Bickford said that he agreed, but his issue mainly was who was going to pay for the widening. Mr. Fleming said that part of the spirit behind either approving or disapproving the variance request is to give them a starting point on design so they can move forward, because the approval is not binding on either party.

Mayor Jones said that he thought that City Council could say yes or no on the variance request, and know that Houston Street has got to be widened and then they can fight over that matter somewhere else and some other time. Jon Bickford asked whether the motion should be contingent upon resolution or concluding a partnership of what they are going to do. Rebecca Huss said that she felt they need to be clear on the goals that they would like to achieve as part of this. Mayor Jones said that they were basically just approving an idea. Jon Bickford said that he thought they were approving more than an idea. Jon Bickford said if they put a preliminary plat with this variance approved, he does not want the City to have any obligation to widen Houston Street, zero responsibility to the City. Mr. Fleming said that he understood, and said that at this point there is no plat approval or construction drawing approval. Mr. Fleming said that this would give them a point to start from, so the City can get together with Mr. Love and work out the schematics to bring back to City Council. Mayor Jones said that TxDOT would also have to get involved.

Rebecca Huss asked the Mr. Foerster at what point do they reach, if the City decides to adopt a tree ordinance, that it would not be retroactive to this development. Mr. Foerster said that the City does not have a tree ordinance at this time. Mayor Jones said that if they are thinking of a tree ordinance that would stop a developer from building, he thinks they are crazy. Rebecca Huss said that is not necessarily what the tree ordinance says. Mayor Jones said he knows if you remove one tree this size, then you plant so many back to make up for that tree. Rebecca Huss said not to make fun of it because the voters are the ones who are deciding.

Rebecca Huss asked Mr. Foerster to continue with the answer. Mr. Foerster said that the City did not currently have a tree ordinance, so they would be grandfathered. Rebecca Huss asked if anything that happens once they approve even the variance, will be grandfathered. Mr. Foerster said that would be the argument that would be made. Rebecca Huss said that says to her that they do not want to do anything if they want to have a tree ordinance, regardless of what the Mayor thinks, she feels that it needs to come up because residents have expressed an interest in having tree preservation and she feels that it needs to be thought about. Mayor Jones said that he was not against preservation, he is just saying that it is not necessarily the priority and it should not hurt a builder. Mayor Jones said that maybe they say that everybody has to plant something acceptable, whatever that is. John Champagne said with all due respect to the Mayor, if Rebecca Huss makes a motion and this body agrees to it, and he is not saying that they would, it will happen. Mayor Jones said he understood, he was just giving his opinion. Rebecca Huss said that Mr. Foerster has said if they do anything at all, this property is grandfathered under the old rules.

Rebecca Huss moved to table the item until they decide whether or not they are having a tree ordinance. Rebecca Huss said that this is a big issue for the people in Montgomery, and you guys talk about why you moved to Montgomery. Rebecca Huss said that she does like the buildings that Mr. Cheatham builds, and while they add to the ambiance of downtown, she feels that the trees do as well. John Champagne said that in this case the developer could not build his building. Rebecca Huss said she is not saying that the trees have to stay, and if you look at Shenandoah's ordinance there is offsetting plantings that does not necessarily have to be on the same site, but it could be.

Mayor Jones said that there was a motion to table, and asked for a second. Dave McCorquodale said that without making a second to the motion, when you look at the number of trees at Heritage Plaza and you can argue the logic of planting a 60 foot mature tree under a power line, and there was not a tree ordinance then, and they got a number of reasonably large size trees with no obligation from the builder at all. Jon Bickford said that not knowing when a tree ordinance is going to be drafted or what the status is, or if it is even being worked on. Mr. Foerster said that it has not been worked on by him. Jon Bickford said that it could be months away from having an ordinance come before City Council to approve. Mayor Jones said that they have been talking about the tree ordinance for 7-8 years. Jon Bickford said that they would have to stop all development, otherwise it would all be grandfathered, and asked if an alternate would be if they approved this variance subject to not being grandfathered. Mayor Jones said that this action has nothing to do with trees. Rebecca Huss said that it does to her. Mayor Jones said that this is not a

plat it is just an idea. Rebecca Huss said that Mr. Foerster is saying that this will get grandfathered if they do anything.

Mr. Foerster stated that Mr. Love advised that construction plans have been submitted to the City, and asked if that was correct. Mr. Fleming advised that was correct. Mr. Shackleford made a suggestion, stating that if the developer were willing to offer a voluntary landscape plan with a condition of the variance, because right now the ordinance does not require a landscape plan, so that City Council could at least see what the developer is proposing to do on the property in lieu of retaining the existing trees, would that help them understand what he is proposing. Rebecca Huss said that she thought that would make a big difference. Mr. Yates said that the Planning and Zoning Commission has discussed a tree ordinance twice, and they are in favor, but they have not seen a draft of the ordinance. Mr. Yates said that he advised the Commission last night that he would have it for them at their next meeting on March 28, 2016.

Mayor Jones called for a second to the Motion on the table. There was no second, so the Motion died.

Jon Bickford moved to accept what has been submitted, pending the addition and approval of a comprehensive landscaping plan for the site.

John Champagne stated that there was also a recommendation from the City Engineer regarding a meeting between the City Engineer and the developer regarding the concern over Houston Street. Mr. Fleming said that was correct.

Jon Bickford added the recommended meeting between the City Engineer and the developer regarding the concern over Houston Street, and he also wanted to include that in no way does his motion include any responsibility of the City to widen Houston Street. John Champagne seconded the motion.

Discussion: Mr. Fleming asked for his own clarification, whether this motion included approval of the variance request. John Champagne said that he thought that was based on Mr. Fleming's interaction with the developer. Mr. Fleming said that was his question. John Champagne said that was the way that he understood the motion.

Jon Bickford said that for clarification, the motion he is proposing is that they approve the variance request, subject to a comprehensive landscaping plan for the site that City Council can see, have recommended meeting between the City Engineer and the developer regarding Houston Street schematics, and making it absolutely clear that there is no obligation to the City widen Houston Street to support this variance. John Champagne seconded the amended motion.

Rebecca Huss said that she felt this was a big improvement, but felt that they needed to deal with the issue of how they want the City to look before they make an irreversible decision and go forward without a mitigating plan or replacement plan, or whatever plan ends up being that is acceptable to the Planning and Zoning Commission and City Council. Rebecca Huss said that she felt they were missing an opportunity here. John Champagne said that her point was duly noted. Mayor Jones said that he did not hate trees.

The motion carried with 3-Aye Votes and 1-Nay Vote by Rebecca Huss.

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.

John Champagne asked if the City Secretary was moving forward with getting information on getting set up with electronic agendas. The City Secretary advised that she was working on getting prices.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 8:15 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by: _____ Date Approved: 03/08/16
Susan Hensley, City Secretary

Kirk Jones
_____
Mayor Kirk Jones

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