MINUTES OF REGULAR MEETING

April 12, 2016

MONTGOMERY CITY COUNCIL

CALL TO ORDER

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

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

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

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

Mayor Jones introduced a group of Weeblos from Cub Scout Pack 351 and Boy Scout Troop 491 who were in attendance at the meeting.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Workshop Meeting held on February 16, 2016, and Regular Meeting held on March 22, 2016.

Rebecca Huss commented that she did not have any changes, but had two comments that she had questions on. The first question was regarding Page 6 of the Workshop Meeting held on February 16, 2016, that stated "Mr. Fleming advised what needed to happen in the next 30-60 days would be to look at financing options" and asked if that was what they were going to do at the Workshop Meeting that had been postponed or was there something else that was happening. Rebecca Huss said that there was also a mention of looking at what was involved with land acquisition in that same paragraph. Mr. Yates said that it was the intention of looking into that information at the next Workshop Meeting.

Rebecca Huss asked whether anything had been done in terms of investigating the land acquisition issue. Rebecca Huss said that they had discussed the Stewart Creek site even though they were not planning on using that for the current expansion, they should have plans on what they need to look for in order to use the site that they have, and if there is an additional site that they need to get moving to work with the land owner to see if they would donate land. Mr. Fleming said that they were looking primarily at the Town Creek location and they have not looked into Stewart Creek. Rebecca Huss said that it could state what acreage would be needed at the Stewart Creek location to plan for the future.

Rebecca Huss then questioned on Page 7 of the Workshop Minutes, where they commented that since it was a Workshop Meeting and there were no official decisions regarding pursuing the Town Creek site, and asked if they needed to have an official Agenda item to take a vote on the matter. Mr. Yates stated that he could place that item on the next Council Meeting Agenda to take action on that item. Mr. Yates said that they also need to take action on the Master Plan. Rebecca Huss said that when they have the Workshop on financing matters it will show that Council is officially going in that direction and why are these particular projects more important that some other ones.

Rebecca Huss moved to approve both sets of minutes as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action regarding street closures for the Antiques Festival, to be held on Friday, April 29, 2016 through Sunday, May 1, 2016, including College, McCown, Caroline and John A. Butler.

   Mr. Yates advised that this is a request from Tiffany Lockhart, HMBA President, regarding the street closures for the Antiques Festival. Mr. Yates advised Mrs. Lockhart that they would also be required to have proof of insurance, which Mrs. Lockhart said that she has the insurance and will provide the certificate before the Festival. Mr. Yates said that he has not seen the insurance certificate as of yet.

   Rebecca Huss said that she has been to all the HMBA Meetings and obtaining the insurance was one of the first things that they discussed getting and that the City needed to be included, so that was done right away.

   Mayor Jones said that it was basically the same street closures as have been done in the past. Rebecca Huss said that they are using the same number of tents and the same layout, except there will be more located at the Community Center.

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

3. Consideration and possible action to schedule a Public Hearing for rezoning of 10.36 acre site of McCoy's Center located at the SW Corner of Texas SH105 & Buffalo Springs Drive from Commercial, Single-Family and Multi-Family Residential to Commercial to be held on May 10, 2016 at 6:00 p.m.

   Mr. Yates advised that this a request to rezone the property to be all one zone as Commercial.

   Rebecca Huss asked to be clear that this does not include any change to the corridor enhancement ordinance. Mr. Yates advised that this would not have any effect on the corridor enhancement. Mayor Jones said that nobody is quite sure how that property got zoned the way that it is.

Dave McCorquodale said that in the property there are only two small sections that are R4 – Multi-family. Mr. Fleming said that it appears that there are only a couple of strips of multi-family use. Mr. Fleming said that he felt that the intent by the owner was to clean up the zoning and have it all zoned commercial. Dave McCorquodale asked if they could clean up some of the other zoning issues along with this item. Mr. Yates stated that the Montgomery Planning and Zoning Commission is looking at the entire Zoning Map for the City to make other suggestions. Mr. Yates said that this is one of the places that the Commission could recommend to City Council. Dave McCorquodale asked how fast the Commission would be looking into making recommendations and asked if that would be an action item for City Council to take a look at. Mr. Yates said that the Commission discussed the Zoning Map last month at their meeting and they are supposed to discuss it again at their April Meeting. Mr. Yates said that they would probably have some alternatives for zoning from the Commission in May.

Dave McCorquodale asked about the R4 multifamily zone and said that he did not recall that zone. Mr. Yates said that it has been included since the zoning ordinance was adopted. Rebecca Huss said that commercial property is more valuable that multi-family, so the owner of the other two pieces might be interested in moving towards commercial, and asked if it would be something that they could ask them to include in the public hearing that they will have so that they could take care of it all at once. Dave McCorquodale said, to him, even if it is not the exact same thing, but in terms of just cleaning the other up. Mr. Yates said that the City goes through the same process as an individual when they want to rezone property, so they would be required to call a public hearing and notify people within 200 feet of the property that it is being changed. Mr. Yates said that tonight City Council could not go beyond the 10.36 acres because it is not on the Agenda.

Dave McCorquodale asked if Mr. Yates thought that there would be a list of high and low priority tracts of land, or a way to look at things such as R1, adjacent to the larger developments, because it seems like they have a limited amount of time to look at them before they are either bought with the assumption that it is one zone, but it could be a list on the back burner to rezone that property. Mr. Yates said that they could focus on the area of FM 149 and SH 105. Dave McCorquodale said that he felt that would be worthwhile. Rebecca Huss said that they could target the type of real estate that they are talking about rezoning and not stack all of it together,

everyone would be concerned about the same things and the could proceed in a linear fashion quickly and easily. Dave McCorquodale said that he knew there were more steps to accomplish the changes but there seemed to be a way to make some progress on the Zoning Map without bogging everything down. Dave McCorquodale said that he thought the City Council should look at the Zoning because it was something that was not going to change in the next 18 to 36 months. Rebecca Huss said that cleaning the zoning by the Womack Cemetery might be more complicated. Mr. Yates said that there was a large industrial tract at the end of Baja. Mr. Yates said that picking out the areas of FM149 and SH 105 sounds good.

Mayor Jones asked if the rezoning was being requested by the property owner. Mr. Yates said that it was being requested by the property owner.

Rebecca Huss asked if they could amend their motion to call a public hearing for 20.48 acres or whatever the three tracts total together. Mr. Foerster said that he did not feel comfortable doing that. Rebecca Huss asked whether the Planning and Zoning Commission could do that if City Council did not do it until the second meeting of the month. Mr. Yates said that the Planning and Zoning Commission will have their April meeting and it will depend on what the public hearing produces to determine how fast City Council will get to the matter. Mr. Yates said that he could put an item on the next City Council Agenda to call a public hearing but he would need to know the legal description of the property, but he could have a problem getting that information between now and the next Council Meeting. Mr. Yates said that he could probably come up with the information in a couple of weeks and get the description from the tax assessor.

Dave McCorquodale moved to approve setting the public hearing for the rezoning request for the McCoy Center to be held on May 10, 2016 at 6 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

4. Consideration and possible action to schedule a Public Hearing regarding a request for a Special Use Permit to allow a radio station and tower to be located on a 0.05474 acre tract of land situated in the John Corner Survey, Abstract Number 8, Montgomery County, Texas, and being out of a called 108.89 acre tract (Tract One) conveyed to LeFevre Development Inc., to be held on June 14, 2016 at 6:00 p.m. *(Property is immediately east of Rampy Lake and west of Lone Star Parkway.)*

John Champagne noted that the metes and bounds stated that the tract of land is a 0.0574 acre tract of land that is a fraction different than the agenda wording.

Rebecca Huss asked whether they had to set a meeting without having information on the tower description or dimensions. Mayor Jones advised that they could find out all that information at the time of the Public Hearing.

Dave McCorquodale said that one of the things that people look at is the view, and things like towers and buildings can impact that view. Dave McCorquodale said that he was not saying that one way was better than the other, but asked if the City, as part of the Comprehensive Plan, would want to have an approach for the next time when someone comes to the City with plans for a cell tower. Dave McCorquodale said that, as an example, some towers have red lights on top, while others have strobe lights on top, and if you were in a house facing that direction, he just felt that there were things that were worthy of a conversation at some point. Rebecca Huss said that some of those issues might need to be looked at before a public meeting, because that is something that they need to decide if they want to do and then have a public hearing to see how the public feels about it.

Mayor Jones said that generally a Special Use Permit has a public hearing where City Council has discovery and review at the same time. Mayor Jones said that they are just scheduling the public hearing and they can review all the information then.

Mr. Yates advised that he could have some information, in general, regarding towers at the next meeting, to allow City Council to study and consider the information prior to the decision making process. Mr. Yates said that the Planning and Zoning Commission will also review the information. Mayor Jones stated that the Planning and Zoning Commission would also conduct a public hearing regarding the tower.

Dave McCorquodale asked whether the land would revert to its prior use should they determine that they no longer need the tower. Mayor Jones said that it would be like any Special Use Permit, if they quit using the Special Use Permit then it would revert back to its original use. Mr. Yates advised that the property that is being discussed is in a Planned Development District of Mr. LeFevre. Dave McCorquodale said that some of the Special Use Permits have a requirement that the permit must be renewed by City Council annually, and with a tower how

would it be worded. Mayor Jones advised that the wording can be done how City Council wants to word it, it could be reviewed every five years, or how long they choose. Dave McCorquodale asked the City Attorney how that would be worded. Mr. Foerster said that the ordinance does not really speak to the period of time, so he felt that it would be on a case-by-case basis. Mr. Yates said that he was planning on tracking it for five years for the renewal.

Rebecca Huss asked if they made the investment of placing a tower on the property and then in a few years the City said that it did not fit with the vision of the City, would they be able to sue the City for economic losses for having to take the tower down, because they are structured to last 20+ years. Mr. Foerster said that he felt that if the City put the company with the tower on notice in advance of them constructing the tower that the permit is good for five years and they are at risk of not getting the permit renewed, he felt that they would waive any claim that they might have. Mr. Yates said that the report on towers could include information about what other places do regarding the time limits. Rebecca Huss said that she would like to know what people do that have, specifically, historic districts. Rebecca Huss said that in The Woodlands they have a lot of tall trees. Dave McCorquodale said that the cell towers in The Woodlands are about the size of a telephone pole and they are totally hidden.

Dave McCorquodale moved to schedule the public hearing regarding a Special Use Permit for a radio tower to be held on June 14, 2016 at 6:00 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

5. <u>Consideration and possible action to schedule a Public Hearing regarding a request from Michele Martin for a Special Use Permit to allow a micropigmentation tattoo business for eyebrows and eye shade exclusively at 14375 Liberty Street, Montgomery, Texas, to be held on May 10, 2016.</u>

Mr. Yates advised that the applicant's intention, even though she had to apply under the tattoo parlor licensing process, is to provide eyebrows and eye shades and this is just to set the public hearing. Dave McCorquodale said that it seemed they got half the Special Use Permit requests that come before City Council are victims of the list, and the other half are worthwhile to take a look at. Dave McCorquodale said that this one seems that it is unfortunate that it had to be on the list. Rebecca Huss said that she thought that the license is exactly like they are for the biker tattoos in terms of how the State looks at the permit. Mayor Jones said that another

approach would be to modify the list that requires the Special Use Permit. Rebecca Huss said that she would rather not modify the list.

John Champagne asked whether the Special Use Permit would limit the tattoos to only micropigmentation. Mr. Yates said that was correct and would only include the two specific areas stated, because tattoos are all micropigmentation. Rebecca Huss asked whether the Planning and Zoning Commission had reviewed the information. Mr. Yates said that they were scheduled to have their public hearing at the latter part on April 25, 2016.

John Champagne moved to schedule a public hearing for Michele Martin regarding a Special Use Permit to allow micropigmentation tattoos for eyebrows and eyeshades exclusively at the address listed as 14375 Liberty Street to be held on May 10, 2016 at 6:00 p.m. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss stated that her only comment was the word "exclusively" and said that it could mean only at that one location on Liberty Street, and they are talking about the two locations on the face, so the wording needed to be moved around a little bit so that it was clear what "exclusively" was addressing. Mayor Jones said that he bet they could write it in to get the correct wording, because the City is writing the Special Use Permit.

The motion carried unanimously. (4-0)

6. Consideration and possible action to schedule a Public Hearing regarding increasing the City's water and sewer tap fees to be held on May 10, 2016 at 6:00 p.m.

Mr. Yates stated that since this involved a fee ordinance it required a public hearing.

John Champagne moved to schedule the public hearing regarding increasing the City's water and sewer tap fees to be held on May 10, 2016 at 6:00 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding vendor permits for large special events.

Mr. Yates stated that in the past vendors at the Wine Festival and Antique Festival were not required by the City to obtain their $20 vendor permit and the City did not enforced the ordinance. Mr. Yates said that he wanted to ask City Council how they wanted staff to handle

this matter. Mr. Yates said that the suggestion has been that the City work with the people that are organizing the festival and obtain a copy or listing of the vendors and their sales tax permit. Mr. Yates said that an ordinance stating the City policy can be added to the City Code review process, not requiring a specific ordinance at this time.

Mayor Jones said that his experience with the festivals was usually the event coordinator requires all of that information from the vendors, and often the State Comptroller's Office comes around and checks all the vendors to make sure that they have a sales tax ID. Mayor Jones said that he was not in favor of the City getting involved at all, and he did not see a reason to do so. Rebecca Huss said that there is a form for the Antiques Festival that the vendors complete to get space at the festival. Rebecca Huss said that they could modify the form to get the information needed.

Mr. Yates explained that the $20 fee was set by ordinance for a one month period, and that fee for one month, in his opinion, was pretty cheap. Dave McCorquodale said that it was a fair fee, he just wanted to make sure that the process was as easy as possible for the vendors that do business here.

John Champagne asked about preachers and tent revivals. Mr. Yates said that they would only need a permit if they were selling something. John Champagne asked if staff wanted to also include business and commerce and not just events. Mr. Yates said that other cities have used the number of 50 people to determine a large event. Mr. Yates said that the cost to the City is the issuance of the permit.

Mayor Jones said that he was stating he did not want the $20 permit fee for the large events and no to the City receiving any information from the vendor unless needed in the case of a crime or someone got sick.

Rebecca Huss said that the City is just ignoring the policy.

After discussion, John Champagne moved to take no consideration or possible action on this item at this time. T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss said that given the tone of the discussion it might be better to direct staff to specifically continue to not enforce the Special Use Permits for the bigger events, rather

than having to not enforce it and look like they are not doing their job. Mayor Jones said that they should change the policy. Mr. Yates said that it was an ordinance that would need to be rewritten, which is fine and he would be glad to do that. Mayor Jones said that they have their normal vendors and then they have the special event vendors. Mr. Yates said that he understood. Dave McCorquodale asked whether they needed to amend the motion to specifically state that the ordinance needed to be modified. Mayor Jones said that right now the City would be going against the Ordinance by ignoring what it states. Rebecca Huss said that she did not want to leave staff in limbo and looking like they are not doing their jobs.

John Champagne moved to amend the motion to authorize modifying the Ordinance to address large events. Dave McCorquodale seconded the amended motion, the motion carried unanimously. (4-0)

8. Report regarding the Mason Street Agreement.

Mr. Yates said that he wanted to present the information to City Council to see if they are agreeable with the terms of the agreement.

Dave McCorquodale asked whether this information should be discussed in Executive Session. Mr. Foerster said that he did not consider it an Executive Session matter.

Mr. Foerster said that this was a two-step process. One step is a petition to abandon the street, but connected to, and critical to that, would be an agreement whereby they provide the City space for additional parking in exchange for some things that the City can do for them. Mr. Foerster said that he would recommend that for every road abandonment there would be a public hearing held on the matter.

Mr. Yates said that Mason Street is not a platted street, and just like Wade Street that was discussed several meetings ago. Mr. Yates advised that Mr. Washington has agreed to leave Wade Street as it is. The City is in the process of surveying Wade Street, where the waterline is next to the road and they will also have an easement for the road. Mr. Yates said that what Mr. Washington wants in return is payment for the two triangular tracts of land south of Wade Street, so they are proceeding on that matter.

Mr. Yates said that when he first came to work for the City, Council had mentioned that they wanted to get more parking on Maiden Street, which runs on the west side of Mason Street, behind the Community Center. Mr. Yates said that the basic understanding is the City will give up Mason Street, in return, the City will receive part of Maiden Street, which would be paved for parking or street widening. Mr. Yates said that they wanted to save the tree that is on the corner, so the owner wants to start from the edge of the drip line going north to the property line all the way up to Clepper Street. Mr. Yates said that it would be 19 feet from the right-of-way line.

Dave McCorquodale asked where the 19 feet fell from where the current pavement is. Mr. Fleming said that until they actually survey they do not know. Dave McCorquodale said that his fear is that it seems like a very arbitrary number. Dave McCorquodale asked what type of parking they were looking at doing. Mr. Fleming said that they would have to survey the area first.

Dave McCorquodale said that what he would like it to say that instead of "19 feet", he would like it to be "a distance that is agreeable to the City Engineer's for what is required to put whatever needs to be installed." Mr. Yates said that they will know that figure as soon as they finish the survey and they won't do the agreement until the survey is complete and the measurement will be determined at that time.

Mr. Fleming advised that the area in question is very narrow and the parking will probably have to be a 45 degree angle.

Rebecca Huss stated that she had some comments. In the second paragraph of the proposed agreement, it states that any parking spaces created by this transaction, are to be considered tied to the remaining property of Mr. & Mrs. Brosch in case of future development of their property. Rebecca Huss said that tells her that they still own the land even though the City has parking spaces on it. Dave McCorquodale said that he agreed with Rebecca Huss in that concern.

Rebecca Huss said that there are two issues, 1) if the City takes out Mason Street we have made their property contiguous. Now it would make sense for them to subdivide further and have the house and the garage, and sell off the barn and the pasture. If they do that next year, the

City would have taken all this money and improved their property and the City would be out the parking spaces. The City should have some time when they own the parking spaces, such as leasing them for a year for a $1.00. Rebecca Huss said that if the City pays for the improvements, then the spaces need to be available to the City, and they need to put in their own parking.

Dave McCorquodale said that he would go back to the previous point and would ask for the needed dimension for a parking spot and a 5 foot landscaping buffer easement on the backside of there to be able to be screened. Dave McCorquodale said that if they are paying for parking, they are basically doing a land swap for a rental. Dave McCorquodale said that it needs every "I" dotted and every "T" crossed, that this is totally the City's once the deal is complete.

Rebecca Huss said that the cost to the City for the irrigation tap is actually $550 to pay to Gulf Utility, plus $185 for the meter. Mayor Jones said that the reason for the irrigation is if someone plants some sort of vegetative screen they will need to water, and there is no water around. Dave McCorquodale said that he did not see how the irrigation meter would be tied to the right-of-way easement. Mayor Jones asked if they wanted to take the waterline out of the agreement. Dave McCorquodale said that was correct.

Rebecca Huss said that she also had a comment about the drainage of storm water paragraph, and said that obviously the City accepts it now, but if they put pavement and a building on that site and all of a sudden there is ten times more water, then the City would not accept that. Rebecca Huss said if the usage changes, she does not feel that they need to have that clause in the agreement because that could be a lot of water.

Rebecca Huss said that in the second to last paragraph that says that Mr. Brosch can access Prairie Street to a garage in line with the present paving of Mason Street, and said that she felt that they should be specific that this agreement does not change any of the requirements to keep it within the Historic Zoning rules, when it comes to building a garage. Mr. Yates suggested taking that paragraph completely out of the agreement.

Dave McCorquodale asked about the replacement of fence addressed in the agreement. Mayor Jones said that right now it is an inexpensive T-post, hog wire fence. Dave McCorquodale asked if that was what the City wanted to put back. Mayor Jones said that would be the

equivalent that he would put back, he would use the same materials. Dave McCorquodale said that he did not mind doing the labor to move the fence over, but in terms of new fencing materials would not be part of the deal. Mayor Jones said that they would have to do some materials, but it would not be much. Mr. Yates said that he could replace the fence with an equivalent fence. Dave McCorquodale said that agreement states a wooden fence. Mr. Fleming said that it would be a three rail fence, with one by fours and metal posts. Mayor Jones said that they can look at the cost, because they want to maintain a certain look there.

Rebecca Huss said in the minutes from the March 22, 2016 meeting, Council also talked about moving the Historical Marker so that it was still visible to traffic. Mr. Yates said that he has addressed the Historical Marker and Mr. Brosch is fine with moving the marker. Rebecca Huss said that there was also the mention of pedestrian access, and said that she did not consider the pedestrian traffic to be a deal breaker. Dave McCorquodale said that he could see them not wanting the pedestrian cut through. Mayor Jones said that there was other places for the pedestrian traffic.

Mr. Yates said that he would talk to Mr. Brosch tomorrow regarding the changes to the agreement.

9. Consider and possible action regarding Interlocal Agreement for the allocation of sales tax revenue with Montgomery County Emergency Service District #2.

Mr. Yates said that several weeks ago he learned that ESD #2 was going to be calling for a sales tax election. Mr. Yates said that the City of Willis has struck a deal with the ESD to where they will split the sales tax in the City's extra-territorial jurisdiction ("ETJ").

Mr. Yates advised that if the sales tax election passes, it will be a two cent sales tax, which is the maximum that is allowed for a local sales tax in Texas. Mr. Yates said that if they reach an agreement, they would split the sales tax with the ESD, only after the City annexes property in the ETJ. Mr. Yates said that if the sales tax were to pass it would help to make a strong fire department that would be good for the School District and the City. Mr. Yates noted that the City Attorney is also the Attorney for ESD #2, but stated he has not been working on their ESD Sales Tax Election.

Dave McCorquodale asked whether the City of Conroe had this type of agreement. Mr. Foerster said that the City of Conroe has their own Fire Department, so as they annex out, the City, by law, they notify the ESD that they are taking their percentage of the sales tax, then the City of Conroe must pay their pro rata portion of the debt current with that ESD before they can consummate the complete annexation. Mr. Foerster said that the City of Conroe is in a different situation where the City does not have their own Fire Department.

Mr. Foerster said that this issue came up a few years ago in Willis, and this goes back several years where ESD's were able to pass the legislation and the cities did not realize that as they try to annex the areas that are served by the ESD's, the sales tax is capped at two cents and they won't get any more of the tax. Mr. Foerster said in a recent legislative session the Texas Comptroller was authorized to accept these Interlocal Agreements to share sales tax revenue. Mr. Foerster said that the Interlocal Agreement is sent to the Texas Comptroller's Office, assuming that the sales tax passes, then they will make the division of the taxes according to the terms of the Agreement. Mr. Foerster said that as the City annexes, then those areas annexed by the City will be able to split the tax half and half with the ESD. Mr. Foerster said that with the additional sales tax the ESD would be able to provide more paid firefighters, which in turn could lower the ISO rating that will lower insurance costs.

Dave McCorquodale asked if they would end up with patchwork coverage as you annex in the areas. Mr. Foerster said the coverage would not change as long as the ESD's boundaries remain the same.

Mayor Jones said that it has been about five years since the last sales tax election was attempted, and the City had been very much opposed to the ESD sales tax election and some in the City actively campaigned against it and it was defeated. Mayor Jones said that the City can't annex any further east, so it will not hurt the City there. Dave McCorquodale said that it comes down to how big the City sees itself growing, and he does not see this as a threat to the City's basic growth plan. Mayor Jones said that it is not as much as it used to be.

John Champagne said that currently the ESD gets nothing from the City. Mr. Foerster said that they currently get ten cents on the $100 of the ad valorem tax money. Rebecca Huss said that includes places outside the City in the County. Mayor Jones said if the ESD passes the election they will have Dobbin, and other places that they will collect sales tax.

John Champagne asked what is the motivation to adopt the agreement. Dave McCorquodale said that it is either a deal, but not a great deal, and the other is no deal and they get the full two cents. Mayor Jones said that the bottom line is the ESD is going to hold an election that the City can't vote in but if it passes, they get the two percent sales tax, or we can sign this agreement and we get one percent. Dave McCorquodale said he understood what was being asked, but if you look at the land use and what it is being associated with the residential development in terms of the number of structures per square acre and the number of people per square acre that you are dealing with, the two percent is not up to the City to decide it is a fair amount to go after. Mayor Jones said that the land area that would affect the City is so small compared to their entire area. Mr. Foerster said that the City of Willis is doing the agreement, and he thought that New Waverly was also doing one with their ESD.

Dave McCorquodale said that he did not want it to look like an endorsement for the sales tax by adopting the agreement. Mr. Foerster said that he could see that an argument could be made that by the City Council in passing this agreement, they could be endorsing the sales tax. Dave McCorquodale said that he did not want to endorse the sales tax. John Champagne asked if there was any other potential downside to approving the agreement. Mr. Foerster said that what was going to be the maker or breaker on the sales tax election is what happened five years ago, which was Bentwater came out strong against the sales tax election and killed it. Mr. Foerster said that he read that Fire Chief Brian Edwards is out campaigning in those areas with the Homeowner Associations and Subdivision groups trying to educate them on the upside of allowing the sales tax revenue. Mr. Foerster said that most of the people are already paying their goods and services with sales tax revenue anyway, it is just being paid to Conroe or to Montgomery if they are in the City. Mr. Foerster said the unannexed areas to the south and west, and some northwest along the Lone Star Parkway are the areas that the City still has growth available and will be the areas that the City would share the tax with the ESD.

Rebecca Huss asked if amendments could be made to the agreement as they annex property into the City. Mr. Foerster said that they could negotiate in particular if they had a Target that wanted to come into the City and was in the City's ETJ, and in order to complete the deal they would have to have a considerable amount of sales tax revenue under a 380 Agreement, then you could go to the ESD #2 and say that in order to make the project work the City will need the full two cent sales tax for the term of the development agreement, whether it is a 5, 10 or

15 year agreement. The result would be that the property develops, while the ESD would not get any sales tax for that specific period, and then after that term he would assume that it would revert to the half and half arrangement with the ESD. Rebecca Huss asked to confirm that it would not be illegal to modify the agreement. Mr. Foerster said that it can be modified.

Mr. Foerster said that it would be a lot easier for the ESD to provide protection to a large retailer versus an apartment complex. Dave McCorquodale asked if it was possible to do this agreement after the election. Mr. Foerster said that it was possible to do that. Mr. Foerster said that Willis entered into their agreement after the sales tax went into effect. Mr. Foerster said that there is always the fear with the ESD that the City's clout could be stronger with making legislative changes for ESD's around the State.

Mr. Foerster said that if they assume that they don't pass the agreement, there is a potential of bringing in a retail development. He did not see why ESD #2 would not be willing to enter into an agreement with the City, if not for the total District, at least for certain tracts that are subject to retail development. Dave McCorquodale said that it would seem like the land that they annex and they were looking to negotiate with them, there would be actual data that they could go out and collect and he would be the fire departments have that kind of information for planning purposes based on land use. Mr. Foerster said to remember that the City and ESD #2 represent the same constituents. It is important to the ESD that the City can provide the services to provide water for them to put out fires, and it is important to the ESD's that they are very proud if they can find ways to lower their ISO rating.

Rebecca Huss said that since the ESD#2 is willing to do a 50/50 split they see a value in the City otherwise they would not do the agreement.

Mr. Foerster advised that Mr. Yates and Mayor Jones had attended the ESD Meeting and asked what their motivation was for moving forward with the agreement. Mayor Jones said that he had missed the meeting but Mr. Yates had attended. Mr. Yates said that he felt the ESD's motivation was that the City would not terribly oppose the election, not necessarily that they would comment one way or the other.

John Champagne asked if it was initially the ESD was designed to fund off of ad valorem taxes. Mayor Jones said that the ESD's in the County have been doing this for many years, and ESD #2 is the only one that has not been collecting sales tax.

Mr. Shackleford asked if it was possible to get a longer term that 20 years for the initial agreement, and at the end of whatever term they approve and they are not able to agree on the 50/50 participation on sales tax, would the ESD get all of the sales tax at the end of term. Mr. Foerster said that the sales tax rights would revert to the ESD at the end of the term. Mr. Foerster said that he had come up with the 20 years because he tracked what ESD #1 in Willis had been willing to do, and said that the same attorney represents ESD#1 and ESD #2. Mr. Foerster said that the City could ask for 30 or 40 years if Council wanted to make it a condition of approving the agreement. Mayor Jones asked when the election would be held. Mr. Foerster said that it would be held on the first Saturday in May.

Dave McCorquodale said that he was in favor of not doing anything with the agreement, and said that he was not opposed to the agreement he just did not want to take any action, he just wanted to remain neutral. Rebecca Huss said that she felt that they would have more leverage on a case-by-case basis and having an agreement diminishes their leverage. Mayor Jones said that was a good point.

After discussion, Dave McCorquodale made the motion to take no action on the ESD Agreement. John Champagne seconded the motion, the motion carried unanimously. (4-0)

10. <u>Consideration and possible action regarding authorizing the purchase of lap top computers to convert to paperless agendas for City Council Meetings.</u>

Mr. Yates stated that City Council had received a memorandum from the City Secretary, Susan Hensley, to purchase tablets versus laptop computers for a total cost of $2,718. Mr. Yates advised that the cost for producing paper copies of the agenda packs is $5,600 per year.

Dave McCorquodale asked what the best GIS viewer that could be used, such as an ARC reader. Mr. Shackleford said that it would be very limited. Dave McCorquodale said that it would make more sense for him to look at GIS versus in a binder. Mr. Shackleford said that he was thinking of Google Earth versus Google Maps. Dave McCorquodale said that if he could overlay Google Earth with the City sewer system and zoning classifications, and be able

to turn those layers off. Mr. Shackleford said that he would need GIS. Dave McCorquodale asked if there was a GIS viewer, and he would be interested in knowing if the tablet would be able to handle geospatial software just for viewing. Mr. Fleming said that it would be easy just by knowing how much RAM the tablet has and the internet connection.

John Champagne said that having a tablet as opposed to killing all these trees is the way to go. Dave McCorquodale said that the tablet is the way to go, but plats will be hard to view and they would still need the hard copy of the plats. Rebecca Huss said that they could have the PDF maps of the water/sewer, etc. and they could pull up the information.

Dave McCorquodale asked how they would receive the Agenda packs. Ms. Hensley advised that the City Agenda packs would be emailed to City Council as they are currently done. Mayor Jones asked what the City Secretary would do with the extra time that would be saved. Mr. Yates said that it would prevent them from having to hire somebody else.

Rebecca Huss said that this would be completely outside the IT Agreement and would not be linked into the network, it is basically a method of sharing documents. Rebecca Huss said that the documents on the tablets would not be private documents. Ms. Hensley advised that everything on the tablets would be public record because it will be City business.

Mr. Foerster said that the City of Willis makes the laptops available either at the meeting or a couple of days before the meeting. Rebecca Huss said that would be good unless they wanted access to the information sooner. Rebecca Huss said that for the price, they are not taking a huge financial risk per unit, and making sure not to combine personal information with City business. Rebecca Huss said that Ms. Hensley has been strict about the email and everyone is fairly aware that this is an important thing and if you want to keep your private life private then you don't mix them. John Champagne said that he will leave his tablet each time when he is done with it and pick it up himself.

John Champagne moved to authorize the purchase of the tablet computers to convert to paperless agendas for City Council. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

11. <u>Consideration and possible action on a request for authorization to advertise for bids regarding a public utility and paving improvements project to serve the Kroger Development.</u>

Mr. Fleming said that is just a request to advertise for bids, which LJA is getting close to wrapping up a final set of drawings. Mr. Fleming said that Kroger is working very hard to be open for business by the end of the year.

Rebecca Huss moved to approve the authorize going out for bids regarding a public utility and paving improvements project to serve Kroger Development. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

12. Consideration and possible action regarding a Request for Verification of Exemption Information for Use on the 2016 Notices of Appraised Value and 2016 Assessment Rolls.

Mr. Yates advised that this is the annual review and in the past the City has not elected to have any exemptions for over 65 and disability.

Rebecca Huss moved to continue the trend and verify our exemption information for use on the 2016 Notices of Appraised Value and 2016 Assessment Rolls as zero. Dave McCorquodale seconded them motion.

Discussion: John Champagne asked to confirm that right now the City gives no exemptions for over 65, disability or homestead. Mr. Yates said that was correct.

The motion carried unanimously. (4-0)

Mr. Yates advised that he would be sending the information tomorrow.

13. Consideration and possible action regarding the annual renewal of the MCCi /Laserfiche Records Management Software and support.

Mr. Yates advised this was the annual renewal for the software that the City has been using for filing. Mr. Yates said that they are using the software extensively. Rebecca Huss asked how much the price had increased from last year. Ms. Hensley advised that it was a 4% increase.

Dave McCorquodale asked if staff felt that there was enough training to get everything done. Ms. Hensley advised that the company has different training seminars that can be taken online and their support is excellent to work with. The City currently has a $200 credit remaining for administrative services that they provide.

Dave McCorquodale moved to approve the annual renewal of the MCCi/Laserfiche that allows staff to file and store records electronically for viewing and retrieval. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

EXECUTIVE SESSION:

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

COUNCIL INQUIRY:

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

Rebecca Huss asked if staff can find out what is the hold up in getting our water bills on the software where they are supposed to see our consumption in real time. Rebecca Huss said that it was her understanding that InCode was still holding everything up. Mr. Yates said that he was not sure whether it was InCode or Accurate. Rebecca Huss said that somebody needs to do something because they were originally supposed to have training two months ago, and it has been delayed several times, so we should either be getting money back or somebody should be doing something. Mr. Yates said that what he has done so far is withhold $4,500 on their invoice. Mr. Muckleroy said that he would get an answer tomorrow. Rebecca Huss asked if there was something that they could do to InCode. Mr. Yates said that he would check into InCode and get something done.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 7:50 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by: _____ Date Approved: 04/26/16
Susan Hensley, City Secretary

_____
Mayor Kirk Jones