MINUTES OF REGULAR MEETING

July 26, 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.

There were no comments made.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Regular Meeting held on July 12, 2016.

2. Consideration and possible action to accept Excess Collections for 2015 Debt Service and Certification for Debt Service Collection Rate for 2016/2017.

3. Consideration and possible action regarding adoption of the following Resolution: RESOLUTION APPROVING THE MONTGOMERY COUNTY EMERGENCY SERVICE DISTRICT BUDGET FOR FISCAL YEAR 2017.

4. Consideration and possible action regarding a nomination for the Montgomery County Emergency Communication District Board.

5. Consideration and possible action regarding scheduling the 2016-2017 Budget Public Hearing to be held on August 9, 2016.

Rebecca Huss commented on the minutes, on page 16, at the top, where there was a discussion regarding an escrow account for the improvements on Houston Street. Rebecca Huss said that she did not think that Mr. White said that they were willing to contribute $100,000. She thought that he had stated that he hoped to get the cost of the improvements down to that amount, but that they would not be willing to make a contribution toward that amount. Mayor Jones said that was how he remembered it and said that they were not willing to put any escrow. Rebecca Huss said that when they discussed the matter, she thought that they were hoping to get the total cost of the improvements down to $100,000. Rebecca Huss said that even if they were to escrow, which they are not, they would do the original contribution of $75,000 that they had discussed with Mr. Yates. John Champagne asked what the wording would state. Rebecca Huss said that essentially it would state "that they were hoping that the total cost of the project would be $100,000." The City Secretary, Susan Hensley, advised that she would make the change to the minutes.

John Champagne asked about the Resolution approving the Montgomery County Communication District budget. Mr. Chip VanSteenberg, Executive Director, was present to discuss the information. John Champagne said that the crux, as he understands this, is land lines are becoming obsolete and the charges for wireless are in arrears. Mr. VanSteenberg advised that the wireless revenues is flattening out, because it is not growing as fast as it has done in the past. Mr. VanSteenberg said that they are getting an increase in revenue for Voice Over Internet Protocol ("VOIP"), which is a different type of phone service. Mr. VanSteenberg said that when you see the decline in the lines and rise in the other services, the difference washes out.

John Champagne asked whether the land line assessment was voluntary or mandated. Mr. VanSteenberg advised that it was mandated. John Champagne asked about the assessment to wireless and whether it was mandated. Mr. VanSteenberg advised that it was mandated by State law. John Champagne asked what could be the possible reason since cell phones are by far extraordinarily high in terms of usage and growth. Mr. VanSteenberg said that the market is saturated. Mr. VanSteenberg said that the carriers in Montgomery County pay their agency for all the landlines in the County. Cell phones are handled differently, the carriers pay all the money to the State, and then it is redistributed to the 9-1-1 authorities, based on a percentage of the population. John Champagne asked if it would be a wrong assumption to say that their problem was with the State, at this point, in terms of revenue. Mr. VanSteenberg said that he did not understand, because they are not having a problem, this is just a statement of revenue projections. John Champagne said that the revenue, in his mind, given the demographics of cell phone usage, should be a steep incline. Mr. VanSteenberg said that for a long time it was a steep incline, but now they have just reached a point of saturation. John Champagne asked Mr. VanSteenberg how he proposed that happened. Mr. VanSteenberg said that he proposed that happened because everyone now has cell phones, and there are very few new users. Mr. VanSteenberg said that there was an analysis that was included with the budget that said revenues are flat, but there are still enough funds to cover expenses. Mr. VanSteenberg said that they have made efforts to reduce expenses to reflect the revenue picture. John Champagne said that basically Mr. VanSteenberg is asking for the 2017 budget to be approved. Mr. VanSteenberg said that the way that the District operates, a majority of the cities have to approve the budget before it goes into effect. John Champagne

asked to confirm that there would be no increase in fees from the District. Mr. VanSteenberg said that was correct.

Rebecca Huss said that they are one of the fastest growing counties in the State, and given the structure of the business, essentially technology plus people, and manning the phones for one emergency every hour is the same as managing ten emergencies per hour, and hopefully, they have planned for greater use of the economies to scale. John Champagne said that he wanted to applaud Mr. VanSteenberg for one of the few quasi government budgets that he has seen go down with expenses. Mr. VanSteenberg said that he has a good Board to work with.

Dave McCorquodale asked about the item for the nomination for the Montgomery Emergency Service District. Mr. Yates said that unless they wanted to change the recommendation for Vicky Rudy, they would not need to discuss.

Rebecca Huss moved to approve the Consent Agenda in its entirety, numbers 1-5, with the changes as discussed regarding the minutes. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

6. Consideration and possible action regarding granting a Leave of Absence to Jon Bickford, City Council, Place 1.

Mr. Foerster said that tonight would be the third night in a row that Jon Bickford has been unable to attend because of family obligations and work obligations. This is on the agenda so that Council can consider excusing him as provided in the Local Government Code and allow him to continue serving on the Council. Mr. Yates said that this would be his second absence, August 9 would be his third meeting.

John Champagne asked how long the planned absence would be. Mr. Yates said that after August 9, 2016 Jon Bickford has advised that he will be able to attend meetings. Rebecca Huss asked to confirm that this leave of absence would not preclude Jon Bickford from

attending budget workshops and those types of meetings. Mr. Yates said that he could attend those meetings.

John Champagne moved to grant the Leave of Absence to Jon Bickford. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action on Department Reports.

   A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates said that he had met with the City Engineers several times regarding plats, system management, upcoming projects, bridge improvements, developments, water and sewer rates and FEMA projects.

   Mr. Yates said that he also met with several developers regarding development along 105 and Lone Star Parkway, Waterstone Development, Kroger development, Villages of Mia Lago and McCoy's Lumber.

   Mr. Yates said that he met with property owners regarding Mason Street, Lone Star Bend extension and Wade Street. Mr. Yates said that Mason Street negotiations have closed for the time being. Lone Star Bend is pending further action by the developer and County Commissioner Meador. Mr. Yates said that he and the Mayor had met with Commissioner Meador last Thursday. Commissioner Meador stated that he had enough funds in the bond issue to pay for the Lone Star Bend extension. Commissioner Meador also advised that he was going to acquire the 20 foot strip for the connection to Lone Star Bend. Mr. Yates said that regarding Wade Street, three of the four property owners are in agreement with the City's purchase of the street area.

   Mr. Yates said that he had met with citizens regarding garbage collection and said that he thought the process went very well. Out of the 26 garbage collection issues, they got 5 phone calls, with 3 being correct that they should not be charged since they either only had animals on the property or it was an inherited house where they just did the irrigation.

Mr. Yates said that he had working with the property owners to clean their lots. Mr. Yates said that the cleanup of the dilapidated buildings is funded by the MEDC.

Mr. Yates said that he coordinated with the County Emergency Management staff regarding flood damage in the City and with FEMA. Mr. Yates said that FEMA had visited the City on July 9, and the second visit will be tomorrow afternoon.

Mr. Yates stated that he had also worked with the Texas Water Development Board regarding financing pre-application with Mr. Glynn Fleming, who is doing an excellent job on making the application for the funding.
Mr. Yates advised that he worked with the contractor and staff regarding the AMRS water billing process. Mr. Yates said that they had conducted the citizen's training for using the AMRS application for the residents. Mr. Yates said that they had about 30 people attend the 3 p.m. meeting, 6 people were at the 5 p.m. meeting, and 6 people at the 7 p.m. meeting.

Mr. Yates said that they had held a Codification meeting during the month that included the City Engineer, Chief of Police, City Secretary, City Attorney, Court Administrator, where they went through the entire Code of Ordinances. Each person had reviewed the Code and made their comments, so they reviewed the comments. Mr. Yates said that they had begun the meeting at 9 a.m. and finished at 12:30 p.m. They were able to work through the entire Code, except for about 10 items that will be discussed by the City Attorney and the Code Attorney following the meeting.

A. Public Works Report – Mr. Mike Muckleroy, Public Works Foreman, advised that they had heavy trash weekend at the first of the month, and they continued with the storm debris from the rain events. Mr. Muckleroy said that they had installed water barriers that they had borrowed form TxDOT for the Buffalo Springs Bridge to keep traffic from driving through that location. They held an infield training session with Accurate on the water meters. Mr. Muckleroy advised that the installed riprap on the GST drain at Water Plant 3. They also pressure washed all the sidewalks and playground equipment at Cedar Brake Park, Homecoming and the Community Center. Mr. Muckleroy stated that he had started on the bollard replacement project at Homecoming

Park. Mr. Muckleroy said that Fernland had reported a total of 259 visitors for the month and provided 16 tours.

John Champagne advised that there are some pretty severe washouts in the walkway in Memory Park. Mr. Muckleroy said that it was in the works to replace the surface with concrete. John Champagne said that he did not see anything that he would consider dangerous. Mr. Muckleroy said that the two main walkways are bad, but they are getting ready to replace them with stamped concrete that is made to look like granite. Mr. Yates said that Memory Park paid 1/3 of their cost, and Fernland paid 1/3 of their cost. Mr. Yates also said that Cajun Concrete donated approximately $1,200 worth of concrete. John Champagne asked if the improvements would be in accordance with the 1,000 year rain event. Mr. Muckleroy said it would be in accordance with the 5-year rain event.

B. Police Department Report – Chief of Police, James Napolitano, presented his report to Council. Chief Napolitano advised that they would finally be getting Officer Carswell back on patrol as of was today. Chief Napolitano thanked all the officers from the department for providing security for the funeral of Sergeant Buamgartner.

Mayor Jones said that he noticed that citations are way down. Chief Napolitano said that they are down 3 officers, in addition to all the arrests and reports that the officers are making, which takes them off the street for a little while. Chief Napolitano advised that until they get back up to the normal number of officers, their arrests will be up and the ticket numbers will be down.

C. Court Department Report – Court Administrator Rebecca Lehn, presented her report to Council, stating that their revenue was down due to the decrease in tickets. Mrs. Lehn advised that the new Warrant Officer Flores did really well last month, disposing of 30 cases, which is averaging a warrant a day. Officer Flores has also taken care of 6 arrests and a total of $6,336 brought in through warrants and 2 bonds.

Mayor Jones asked to confirm that Officer Flores is going after folks after the ticket has gone to warrants. Ms. Lehn said that was correct, up to this point, but now she is

working on current warrants instead of backlogged warrants. Mayor Jones asked if they were able to call and prevent the tickets from going to warrants. Ms. Lehn said that phone calls are made and letters are sent out to the defendants regarding their failure to appear, prior to a warrant being issued.

Dave McCorquodale asked about the firm that the City uses for the back warrants. Ms. Lehn said that Purdue still processes the backlogged warrants. Ms. Lehn said that she thought that they were processing the backlogged warrants every 3 months, instead on monthly as they had said. Ms. Lehn said that every three months she will get an influx of communication with Purdue, which is how she knows the difference from what they are working now and what is being processed through the collection agency. Ms. Lehn said that Officer Flores is keeping track of every person that she contacts, if the person comes in through her contact or if they came in through a postcard from Purdue. Ms. Lehn said that it will take a while, but they are trying to see how much more productive they are versus Purdue. Rebecca Huss said that she thought staying on top on the warrants would be the most important thing, because it is much more difficult if people have forgotten about the ticket. Ms. Lehn said that the longer the warrant is out there, the harder it is to collect.

John Champagne stated that relative to anticipated budget revenue, is the Court running pretty close. Ms. Lehn said that she was running way over anticipated revenue, and said that she thought that the amount was almost $100,000 over. Mayor Jones said that while that amount of money might be collected, the State gets about 75%. Ms. Lehn said that they do not get that much, but when you look at the big picture, they actually collect more. Ms. Lehn said that whatever the total revenue is, the number for the City is higher than what goes to the State, and might be 40% going to the State. Mrs. Cathy Branco, Bookkeeper, advised that the total was $101,000 over anticipated revenue for the Court. Ms. Lehn said that was the total revenue for the Court. Mrs. Branco said that the Court has collected $101,000 more than they anticipated, but out of that amount there are expenses that will go to the State, which are listed separately. Mrs. Branco said that when you look at the budget, you have to look at the revenue versus expenses. Mrs. Branco said that the State fees are shown in the expense line item.

D. Utility/Development Report – Mrs. Ashley Slaughter presented her report to Council. Mrs. Slaughter advised that they had 10 new water accounts, with 4 cutoffs for the month. Mrs. Slaughter said that they had 24 permits, 4 of which were residential homes, and $975 in Community Center rentals. Mrs. Slaughter advised that the City water usage for flushing was zero.

Rebecca Huss said that she had noticed that City Hall used 30,000 gallons less this month than in prior months. Rebecca Huss said that she knew that Randy Burleigh had been involved in updating the irrigation sensors, so she asked Mr. Muckleroy to express her appreciation to Mr. Burleigh for his water conservation efforts if he sees him. Mayor Jones said that the City really appreciates Mr. Burleigh.

Mr. Yates said that another issue is the sewer plant usage, but he keeps getting called off of that project with other projects. Mr. Yates said that they have a project where they can reuse that water from the sewer plant and he just needs to get the cost for City Council, because it will be approximately $20,000 to implement the change at the sewer plant, but it will get the usage down to almost nothing. Mr. Yates said that it will probably work out very well for the City, but they will have to find the funds for the project. Rebecca Huss said that the payback would be in about a year and a half. Mr. Yates said that he will put money in the new budget for water and sewer so that they can start planning for it now.

John Champagne asked about the Homecoming Park restrooms, that shows zero consumption in June. Mayor Jones said that he thought the meters would not register less than 1,000 gallons. Mr. Muckleroy said that was correct, if the meter is under 1,000 it won't show, but the following month it will show up when it goes over 1,000 gallons. John Champagne asked about the 72,000 gallons for Memory Park, with 200,000 gallons in April, and asked if that was part of the pond. Mr. Muckleroy said that was not related to the pond whatsoever. Mr. Muckleroy said that he was still not 100% sure on that reading, because it might be due to the new meters where they had a lag where they might have missed part of another month, and it made up for it in the second reading. Mr. Muckleroy said that the overall number come out correctly, so he

would think that with the problems that they had with the readings, there might have been a lag in there.

Dave McCorquodale asked whether they found something at the Community Center irrigation, because this month the number is 5,000 gallons, which seems much more in line with what he would expect to see given the landscape. Mr. Muckleroy said that what they had found at the Community Center was the vendors that come in for First Saturday and festivals, they were driving stakes through the irrigation system. Mr. Muckleroy said that he visited with Mrs. Shannan Reid about a month and a half ago and asked her to change the policy to where the vendors are no longer allowed to use stakes. Mr. Muckleroy said that they fixed two more leaks over there a couple of weeks ago. Mr. Muckleroy advised that he will be meeting with Mrs. Reid at 3 p.m. tomorrow and they are going to map out and pinpoint which vendor was at that location, and let them know that they cannot use stakes to hold their tents. When they drive in the stakes, they bust the waterline and they might not know it for several days. Mr. Muckleroy said that with the new meter system finally in place, he can keep watch on the amount of usage, and he will have a list of all City accounts that he can check daily to watch for spikes that could indicate there might be a leak. John Champagne said that would be great. Mr. Muckleroy said that not allowing stakes in the ground will really help prevent problems. Mr. Muckleroy said that they had replaced the entire control box at the Community Center a week and a half ago, because the whole system fried.

E. Water Report – Mr. Mike Williams, with Gulf Utility, presented his report to Council. Mr. Williams advised that they had a number of district alerts due to the heavy rains that they experienced at Lift Stations 2, 6 and 8. Lift Station 3 started pulling up debris because they had a brick lodged in it. Rebecca Huss said that it did not make sense to replace the pump if there is still heavy debris getting into the system. Rebecca Huss asked whether they had smoke tested behind Lift Station 3, because if they have debris still getting in there, there has to be some type of incursion allowing large items into the system. Mr. Muckleroy advised that a lot of the old man holes are made up of brick, where they left a couple bricks stuck out as steps. It is very common for the

bricks to fall off and get into the system. John Champagne said that it would still take a lot of velocity to get that brick to the Lift Station.

John Champagne asked if the impeller was gone. Mr. Williams said that the motor had burned up at the Lift Station. Mr. Williams stated that they had obtained a quote to replace the same size and type of motor, but Jones and Carter is evaluating the information to determine the City's future needs, instead of buying the motor now and then having to replace it with a larger pump.

Mr. Williams said that they started having issues at Water Plant 3 shortly after the heavy rains began. Mr. Williams said that there was a breach in the conduit, where the wire into the facility had deteriorated causing a malfunction. Mr. Williams said that they had a quote that was approved and the work should start next month. Mr. Williams said that a temporary repair had been made to keep the facility running.

Mr. Williams said that they had Lift Station cleaning on Liberty from Caroline to the Stewart Creek WWTP.

Mr. Williams advised that the average flow at the sewer plant was 129,000 gallons per day, with no excursions for the month of June. Mr. Williams said that a new rain gauge was installed at the sewer plant that will show inches per hour. Mr. Williams said that the water is at 98% accountability. John Champagne asked Mr. Williams how he accounted for the readings being exactly the same as the City. Mr. Williams said that this time, when the operator went through the plant, it was roughly the same time as when the City went through. Mr. Muckleroy confirmed that they were at Well 2 at the same time. John Champagne asked for the percentages for Well 4. Mr. Williams said that Well 4 was at 83%, which was due to the malfunction of the wells. Rebecca Huss said that they are going to have to use Well 3 more this summer, so they will have to pay higher MUD 3 and 4 fees. Mr. Williams said that they have experienced high temperatures of 100 degrees in the Water Plant, so they made some adjustments and blending Wells 3 and 4 to bring the temperature back down to 80 degrees. Rebecca Huss said that is because of continual use of the Jasper water rather than fixing the water coming out of Well 4. Rebecca Huss asked if the only way to fix the water issue

at Well 4 would be to add another cooling tower. Mr. Williams said that was correct. Mayor Jones said that after the first of the calendar year they will be able to be a little more liberal with water from Wells 2 and 3.

F. Engineer's Report – Mr. Glynn Fleming, Project Engineer, presented his report to Council. Mr. Fleming commented on the Texas Capital Fund Grant Program to serve Kroger, where Key Construction continues to make progress and take shape. Mr. Fleming said that he thinks that they have come to a resolution with Kroger regarding funding the overage construction costs above and beyond the Grant award. Mr. Fleming said that there are standalone agenda items for the contract and construction drawings for Kroger, so that they will be able to move forward with the public infrastructure project.

On the Texas Capital Fund Grant Program to serve Pizza Shack, he was contacted by the general contractor late last week, and he indicated that they were wrapping up the building plans and just about prepared to move forward, hopefully, by the end of August. Mr. Fleming said that he expected to be advertising for the public utilities to serve that project within the next month.

Mr. Fleming said that, as the City Administrator stated, they continue to make progress with FEMA regarding disaster declarations and public assistance. Mr. Fleming said that they had met with the National level of the Disaster Response Team last week, and they have another meeting tomorrow afternoon with the State Project Coordinator. Mr. Fleming said that they should start to see noticeable progress.

Rebecca Huss asked whether they had engineering options already drawn up or are we waiting to hear from FEMA for their decision. Mr. Fleming said that conceptually they have the engineering options complete. Mr. Fleming said that it really depends on FEMA as to how they are going to approach this project. Mr. Fleming said that they are working on two separate declarations. Mr. Fleming said that the meetings that they are attending with FEMA are only addressing Declaration 4269, which is the tax day rain event. Mr. Fleming said that right now they are only looking at the northern bank of the bridge. There is a separate disaster declaration that has yet to be handed down

in its entirety, and they have yet to begin the process for public assistance, which will largely address the southern bank of the bridge.

Rebecca Huss asked if the City was on hold in terms of the waterline across the bridge until all the declarations have been completed. Mr. Flemings said that was correct. Rebecca Huss asked if Kroger would open without a looped waterline. Mr. Fleming said that conceivably they will right now, because that project is on hold indefinitely until they get some resolution with the bridge. Mr. Fleming said that he did not know what the time line will be for moving forward and what their method of repair will be. Rebecca Huss asked whether the City could serve Kroger without a looped waterline. Mr. Fleming said that they certainly could serve Kroger, and said that they have already been having discussions internally regarding potential options to cross the canal elsewhere, or to bring in the northern waterline from another location so that they can get them on a looped system as quickly as possible. Mayor Jones asked whether the most likely option would be east or west of the bridge if you were looking for an alternative crossing. Mr. Fleming said that they have options for both. If they cross the bridge deck as planned then they will cross on the east side. Mr. Fleming said that they have not ruled out the idea of an elevated crossing on the east side, which would be free standing and not attached to the bridge structure. Mr. Fleming said that they are also looking at the possibility of bringing the water in from the west. Rebecca Huss asked if the way west would mean not crossing the canal at all, but rather down another road. Mr. Fleming said that was correct, possibly as far down as Plez Morgan, which is where the City's existing 12-inch line terminates. Mayor Jones said that would be more expensive because they would have a longer run. Mr. Fleming said that it would be more costly and is a longer run, however, they have already identified that as a project that will need to be completed at some point.

Mr. Fleming said that they have submitted four project information forms for review and comments to the Texas Water Development Board, and yesterday they responded affirmatively on all four of the requests. Mr. Fleming said that now they have been formally invited to begin the application process to request funding for these projects. Mr. Fleming said that he would be working with the City Administrator, City Attorney, and Financial Advisor for the next 2 to 3 weeks. Mr. Fleming advised that they might

be able to receive some funding as early as the end of the year so that they can start to address some of the larger capital projects.

Mr. Fleming said that they had an issue with one of the pumps at Lift Station 3, and now they have a rental pump in place right now. Mr. Fleming said that Gulf Utility has provided two possible options for permanent pump replacement. Mr. Fleming said that he has asked for a little bit of time to take a brief look at that. Mr. Fleming said that one of the options is an in kind replacement, very similar to what is already there, and they also presented an option for upgrading the pump, similar to what they did with Lift Station 8, late last year. Mr. Fleming said that they have identified that the Lift Station is operating well beyond its design capacity at this time. Mr. Fleming said that if they are going to come in with a pump upgrade, he would like to get something addressing what the City's ultimate needs will be. Mr. Fleming said that he expected to be back in two weeks with a request to move forward on that matter.

Mr. Fleming said that he had received a call late last week from the design engineers for the Town Creek development, which have approved construction drawings and a preliminary plat. This is a 100-lot development on the west side of town. Mr. Fleming said that it looks like they are getting close to proceeding with that development in the next 30-45 days. They should start to see some single family development start to take shape at that location.

John Champagne asked, if the creek that runs under the bridge remains in its current state with a high level of silt, is it conceivable that it would be more of a potential problem with water flow for the bridge, than it would be if the canal was dredged. Mr. Fleming said that if they saw a similar rain event like the ones that occurred in April or May, the potential for it to negatively impact that bridge further is pretty high. Mr. Fleming said that once they have hopefully attained full public assistance from FEMA to make the repairs permanently, they will do so in a fashion that it will be able to withstand an event like those. Mr. Fleming said that is one of the questions that remains outstanding, and will have to be worked through with FEMA. FEMA likes things replaced exactly as they were. Mr. Fleming said in this case, they can make a very strong case where that is not going to work, because they have a larger issue that they

need to address and correct. Mr. Fleming said they will be working with the Mitigation Specialist to prove that they do have a larger issue that needs to be solved, and going back with what was there probably won't suffice.

Rebecca Huss said if they lost 100 yards, or however much material, from the bank, you can't just put that material back and have a structure that you assume you can drive on. Mr. Fleming said that there was a sizable amount of earth work that will need to be done.

Mayor Jones asked to confirm that FEMA only funds a percentage of the project. Mr. Fleming said that was correct, 75 percent. Mayor Jones advised that the City will need to come up with 25 percent of the cost. Mr. Yates said that he is going to show the information that the City Engineer prepared for the proposed budget to the Mitigation Specialist, and use it that a guide for what they are requesting.

Rebecca Huss asked about the Hills of Town Creek, and whether the actual construction will change the priorities of the infrastructure investment on the west side, because the water pressure has been a heavy concern for some time. Mr. Fleming said that has been a concern. Mr. Fleming said that they have submitted two drinking water projects and two wastewater projects to the Water Development Board. Mr. Fleming said that one of the drinking water projects was a correction of the water issue out SH 105. Mr. Fleming said that they have one long dead end line headed out SH 105, that has 3-4 different line sizes, so they need to go back and clean that up to have one consistent 12-inch waterline all the way out. Rebecca Huss asked whether that would take care of any residential projects out there. Mr. Fleming said that in the long term yes. They also have the Water Plant 2 GST backfill project, which they have completed the design, and for the State to move forward they will need to secure funding. Mr. Fleming said that he believed that project cost was $100,000 - $125,000 for construction costs. Mayor Jones asked whether that was with the projects that Mr. Fleming had requested. Mr. Fleming said that it was not. Rebecca Huss said that she thought they had already approved that project regarding the need for water pressure on the west side of the City, and they had already identified where it would be paid

from. Mr. Yates said that he thought they were going to use Capital Funds for that project.

Mayor Jones said that they had a lot of important water and sewer projects that they need to discuss funding. Mayor Jones asked how long it was going to take with FEMA, 2 years, to get Buffalo Springs back open. Mr. Fleming said that he would like to think that it won't take that long, but he was not able to offer much regarding the time line. Mr. Fleming said that he had made a pretty good case with FEMA that Buffalo Springs is a viable artery for the City.

G. Financial Report – Mrs. Cathy Branco, Bookkeeper, presented her report to City Council. Mrs. Branco advised that the City had $1,797,478 in available funds. Mrs. Branco stated that the City's debt service fund has a debt due on September 1. Mrs. Branco said that right now the City has $94,000 to cover $106,000, but there are outstanding taxes and some transfers that will be completed between now and when the payment is due.

Mrs. Branco said that the utility fund still has a deficit in the budget. Mrs. Branco advised the four main characters are utilities for two of the plants are running $13,400 over what they had expected, repairs and maintenance is at $49,000, sludge is at $14,500, and garbage at $20,000. The City also received less in water and sewer payments to the tune of $40,000. Mrs. Branco said that if you deduct the one line item that is running below budget, then the average what the City is running over at the two plants is $13,400. Rebecca Huss said that this was something that they had discussed last year, where the budget for the utilities and several other things are based more on wishful thinking than actual numbers. Rebecca Huss said that they know that Water Well 4 takes a lot more electricity than the other wells because it is so deep. Rebecca Huss asked if they had numbers from Jones & Carter to get a more realistic picture of what they are looking at. Mr. Yates said that he had not asked Jones & Carter that question yet, but he will. John Champagne asked if Jones & Carter would be involved in the budget process. Mr. Yates said that they would be involved. Mayor Jones said that the City should have history.

Mr. Fleming said that in the case of Well 4, this is the first full calendar year that the Well has been online and operational. Mr. Fleming said that they could make a pretty good estimate of what that cost would be, but this will be the first budget year that they will have true historical data. Mr. Fleming said that, in the case of water and sewer revenue, the City had an incredibly wet spring, and as they get into the summer months, he would expect that number to even out. Mrs. Branco said that she had been working with Mr. Fleming on some of the highlighted items. Mr. Yates said that the bank balance for the utility fund is doing quite well, and is up from $40,000 a couple of months ago to the current balance of $111,000.

Rebecca Huss asked about the last page on the report that shows a line item called "Adams Park". Mr. Yates advised that Adams Park is where the electronic sign is located. Mayor Jones said that the two lots on either side of the museum are rented by the City from Mrs. Virginia Adams.

Rebecca Huss moved to approve the Departmental Reports as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding an Agreement by and between the Kroger Company and the City of Montgomery for additional funding of the proposed public improvements intended to serve the 52-acre Kroger/Milestone Development. (*Tabled at the June 14, 2016 & June 28, 2016 Meetings*)

Mr. Foerster advised that over the last several weeks Mr. Yates, Mr. Fleming, Mr. Shackleford, he and Nic Houston with Public Management, Grant Administrator, have been working on how Kroger goes about paying the cost overages. Mr. Foerster said that there is just under $596,000 in money available for construction. This will leave a shortfall of approximately $306,000. Mr. Foerster said that, in addition, the City Engineer is concerned that there might be additional unforeseen costs, such as change orders, where the contractor has to request additional sums. Mr. Foerster said that they have been going back and forth with Kroger for a number of weeks, talking with Ms. Rita Williams, Director Economic Incentives and Credits for Kroger, and the attorney for Kroger.

Mr. Foerster said that the concern that Kroger has is they do not want to write a blank check and they want some accountability. Mr. Foerster said that they have worked through the issues, and they have actually had a final supplemental agreement after several versions, changes and drafts, which was what they were going to present to Council tonight. Mr. Foerster said that the agreement provided that after the grant funds were paid down, the balance would be paid strictly by Kroger, not by the City, with payments made on a monthly or quarterly basis, as Key Construction contractor provided invoices. Mr. Foerster said that everyone was fine with that, because it also provided some safeguards for the City in that there was a discretionary budget increase figure of 5% or about $45,000 over and above this figure that the City could spend without having to get immediate approval from Kroger.

Mr. Foerster said that last Thursday, Mr. Nic Houston notified everyone that in reading the fine print in the original grant, there is a paragraph by which the cost overruns or overages have to be paid first before the grant money can be applied, this was a 180 degree change from what was originally proposed in the final draft of the agreement. The grant director insisted that the money be paid up front for overages. Mr. Foerster said that he sent an email to Kroger and the City on Monday, and sent a copy to Mr. Houston, advising them that we are going to have to change the arrangements, because now Kroger has to pay at least the $306,000 immediately before the grant funds can be used. Mr. Foerster said that Kroger has agreed to that, and he had received an email from Ms. Williams. Mr. Foerster said that the challenge has been that he has not had time to make the changes to the agreement, and the Kroger attorney is on vacation. Mr. Foerster said that he will be going on vacation tomorrow.

Mr. Foerster said that he is suggesting that City Council agree to the Supplement Agreement that is included in their packet, with the understanding that we will have to amend that Agreement. Mr. Foerster said that with the approval of the engineers, Mr. Yates, the Mayor and himself, he asked City Council to approve the Supplement Agreement so there are no further delays. Mr. Foerster said that it is imperative that they move forward on this project as quickly as possible, including the construction contract, which is the next item on the Agenda.

Mr. Fleming said that he felt that Mr. Foerster had summed up the information very well, and that is where they stand on the matter. Mr. Fleming said that he did not foresee any

further pushback from Kroger on this matter, and they have a well-deserved sense of urgency to move forward on the public infrastructure and it is just a matter of the final details getting ironed out. Mr. Fleming said that they are minor issues that they should be able to work through. Mr. Fleming said that to second Mr. Foerster, the request would be to authorize execution of the Agreement outside of the meeting, pending those changes being made are satisfactory to all parties.

Mayor Jones asked if this situation should have been anticipated earlier, or did they not think that the project would cost that much. Mr. Fleming said that all parties have known all along that the $595,000 allocation for construction was in all likelihood not enough to cover this. Both Kroger and the local developer recognized that from the front end, and in his opinion, had already reached an agreement amongst themselves about breaking out pro-rata contributions to cover that overage. Mr. Fleming said that the only missing piece was until they received the bids for the project, they had no idea how large the overage would be. Mr. Fleming said that they know they have $595,000 in grant funds, the base bid came in at $901,800, which leaves a $306,000 gap to fill.

Mayor Jones asked whether the City would be managing all the money for this. Mr. Foerster said that under the contract, Mr. Houston is the Grant Administrator, and he will be doing that for the City. Mr. Foerster said that the City will have to make sure that the invoices are collected and forwarded to Mr. Houston before submitting to the Grant department. Mayor Jones asked whether distribution of the grant funds would be after the fact. Mr. Foerster said that was correct.

Mr. Fleming said that as they understand it, any matching contribution has to be paid in advance, which is what they are working on right now. Mr. Fleming said that they know that Kroger's contribution will be $306,000, which they are going to contribute those funds initially. Mr. Fleming said that the way in works is the contractor will submit a request for payment for work, Mr. Fleming, as the construction engineer, will review and approve the invoice. Then the invoice will go to the Grant Administrator, for concurrence, and initially it will go to Kroger, for them to draw down their portion of the funding. Once they have expended the overage funds, then the process will remain the same, except it will go to the State instead of Kroger. Mayor Jones said that the Grant Administrator wants to see an

accumulation of paid invoices up to the overage and then they will go to the grant funds. Mr. Fleming said that the Texas Department of Agriculture and Housing and Urban Development will want to see proof of the draw down of funds.

Rebecca Huss moved to approve the Supplemental Agreement, pending the adjustments made by the City Attorney, according to the discussion, that Kroger will be paying their $306,000 before the grant monies are disbursed. John Champagne seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action regarding execution of construction contracts with Key Construction for completion of the proposed public water, sanitary sewer, drainage, and paving improvements to serve the 52-acre Kroger/Milestone Development.

Mr. Fleming said his request was basically the same as the previous item. Mr. Fleming said that he could not in clear conscience ask Council to hold up on this contract until the Agreement is entirely in place. Mr. Fleming said that his request would be once that Agreement is reached and signed by all parties and they have authorization to proceed with execution of the construction contracts. Mayor Jones asked Mr. Fleming if he wanted a motion contingent upon the Agreement or to table. Mr. Fleming said that he wanted it to be contingent upon approval of the Agreement.

John Champagne moved to approve the signing of the contract with Key Construction, contingent upon the approval of the Agreement previously stated. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

10. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, TO RATIFY AND CONTINUE A MUNICIPAL COURT TECHNOLOGY FUND REQUIRING ALL DEFENDANTS CONVICTED OF A MISDEMEANOR OFFENSE IN THE MUNICIPAL COURT IN THE CITY OF MONTGOMERY TO PAY A TECHNOLOGY FEE OF $4.00 AS A COURT COST; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE AND

PUBLICATION AS PROVIDED BY LAW.

Mr. Yates said that during the course of the review of the Code of Ordinance, they were unable to locate an ordinance that created the Technology Fund, which is a required ordinance. Mr. Foerster clarified that they could not find the ordinance, which does not mean that the City Council did not pass it years ago, they just could not find it. Mr. Foerster said that he did not want to be critical of anyone, it is just fact. Mr. Foerster said that he recommended ratifying and approving the Court Technology Fund Ordinance.

Dave McCorquodale moved to ratify and approve the Municipal Court Technology Fund Ordinance and the $4.00 fee for Municipal Court. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

11. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS REGARDING TELECOMMUNICATIONS TOWER FACILITIES BY AMENDING THE MONTGOMERY CODE OF ORDINANCES BY ADDING ARTICLE V, "TELECOMMUNCIATION FACILITIES" TO CHAPTER 18, "BUILDINGS AND BUILDING REGULATIONS;" PROVIDING DEFINITIONS; PROVIDING HEIGHT STANDARDS, DISTANCES FROM RESIDENTIAL USES, LANDSCAPING, APPLICATION REQUIREMENTS, AND APPLICATION FEES; PROVIDING SEVERABILITY AND REPEALING CLAUSES; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Yates reviewed the changes as recommended by the Planning and Zoning Commission, as detailed in the redlined copy of the ordinance.

Rebecca Huss asked whether they should strike "staff" from Section 18-160, which reads "plus time and materials of City Staff" because if the City is paying an outside expert, it is not really the time and materials of the City staff, but should be the City in general. Mr. Foerster said that he did not have a problem with that, he just wanted to make sure and be as clear as they could. Mr. Foerster said that the way they left it last night was "plus time and

materials", and he wanted to clarify that it is from the City. Rebecca Huss said that she just wanted to make sure that anyone that they hired would be included, rather than just being staff. Mayor Jones said that they generally call their steady contractors City staff. Mayor Jones said that they could state "staff or contractors", which would cover it pretty well.

Mayor Jones said that they have the comment in the ordinance a couple of times regarding "residential use has the meaning set forth in the City Zoning Ordinance Use Chart but excludes property that is vacant and unplatted." Mayor Jones asked if that meant that every bit of the City has some sort of zoning definition, and even if it is zoned residential, as long as it is empty and has not been platted, then it is not considered residential. Mr. Foerster said that was correct. Mayor Jones said that they don't have any measurements to take, although it does point out the fact that we do not have a planning part of our Planning and Zoning. Mayor Jones said that by allowing a tower to go in, you can change the use, or desired use of the property. Mayor Jones said that not allowing towers into the City might not be in the City's best interest. Mr. Foerster said that would not be legal.

Rebecca Huss said that she thought that the discussion last night, included the recognition under the referenced document, pretty much anything that has a building on it, where people gather to sleep, to worship, to go to school, those are all protected from being within 200 feet of these monopoles or any pole because of the public safety.

Mayor Jones asked if they made extra protections for the Historic District and the main intersection in town. Mr. Yates said that was correct. Mr. Foerster said that the specific language is on the bottom of page 5 - (4) "<u>In an area within one-quarter mile of the downtown Historic Preservation District, a tower permit shall not be approved for the construction or alternation of a tower structure unless the proposed tower is:</u>

(a) <u>Located from the Historic Preservation District a distance at least equal to the applicable setback area established by subsection (6) of this section, which shall for this limited purpose apply without regard to the existence of any residential lot; for the purposes of this requirement, measurements shall be made from the perimeter of the District;"</u>

Mr. Foerster said that they would have to stay back at least a quarter of a mile from the Historic Preservation District as identified in the Zoning Ordinance. Mayor Jones said that

in order to put a tower down FM 149, they would have to go a quarter mile, which is pretty far away from the intersection. They would have to be a quarter mile from the park.

John Champagne said that he was looking at landscaping, Section 18-151(1) which states that "the entire facility must be aesthetically and architecturally compatible with its environment", which he felt was a very open ended statement. "The telecommunications tower itself must be camouflaged to blend with its surrounding environment through the use of color, materials and design. The entire facility and its landscape must be maintained in accordance with a submitted landscape plan that is approved by the City." John Champagne said if he is to understand from this, if the City were to require this tower to look like some of these bottlebrushes, they could indeed do that. Or they could require them to hang artificial limbs off the side of the tower to make it look like a tree. Mr. Foerster said that the wording gives the City that latitude.

Rebecca Huss moved to approve the Ordinance, as amended by the Planning and Zoning Commission on July 25, 2016, as per the discussions that they have had per the use, plus time and materials of City staff and contractors. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Mayor Jones commended the Planning and Zoning Commission and City staff for their work on this ordinance.

12. Consideration and possible action regarding services provided by Gulf Utility.

Mr. Yates presented his report to City Council regarding services provided by Gulf Utility. Mr. Yates advised that he calculated the invoices for 2014-2015 and the total of nine months of the 2015-2016 fiscal year. The figures show that in 2014-2015 the total cost was $172,216 compared to (nine months) in 2015-2016, which totaled $95,038. Mr. Yates said that the reduction of cost in 2015 – 2016 was primarily due to the expansion of Gulf's basic services in their monthly base fee.

Mr. Yates said that the weekly phone call conference has increased the efficiency and decision making regarding use of Gulf Utility, such as, taps, repairs to lift stations, etc. Mr.

Yates said that the monthly operating cost is about to increase due to maintenance scheduled work.

Mr. Yates said that the general opinion was that Gulf Utility was good on operation of plants and on the system side. They were not so good on the construction side, regarding placing fire hydrants, taps, and items outside their normal operation of checking the plants. Gulf is in the process of hiring another person, which should improve the construction work.

John Champagne said that given the parameters of his request there is almost a 50 percent reduction in cost. Mr. Yates said that was correct, and with three months to go, with an average of $6,000 - $7,000 per month, they could end up at $120,000.

Dave McCorquodale asked if the repairs and maintenance was taking into account the Lift Station that had the ragging problems. Mr. Yates said that those repairs had occurred in November. Dave McCorquodale asked if Gulf Utility came out for deragging of the Lift Station, and whether that cost would show up in repairs and maintenance. Mr. Yates said that was correct, and last year would have been considerably more than this year because they were spending about $3,000 - $4,000 per month. Mayor Jones said that replacing the Lift Station would be a capital expenditure and would not be included in this information. John Champagne asked if they compared capital expenditures from last year to this year, would it be greater this year. Mr. Yates said that was another question that he could check into. John Champagne asked if deragging would be included in this number. Mr. Yates said that is correct. Rebecca Huss said that the decision to buy something new so that they are not having to maintain it every month would come from City Council. Rebecca Huss said that is not saying that Gulf Utility is doing a good or a bad job, it is that City Council had a decision to make, which they did and it resulted in lower costs because they made the capital expenditure. John Champagne said that it does have something to do with it if it was a result of neglect and/or poor evaluation of what is going on period. Mr. Yates said that they might have been able to identify the ragging problem several months earlier. Mr. Yates said that this year, we are more likely to be on top of that this year, more than before, if for no other reason, the weekly phone calls.

John Champagne asked if there was a standard audit that is done with companies that provide these types of services. Mr. Fleming said that he did not have knowledge of a company that did that type of audit. Mr. Yates said that each month the bill is reviewed by Mr. Muckleroy, who signs off on them, each month. Mr. Yates said that when he first came to work at the City Mr. Muckleroy was not even seeing those bills. John Champagne said that he thought that the City has come a long way. Mayor Jones said that just the fact that they took the time to go through this exercise, was a pretty good audit in itself. John Champagne said that it was a review of the expenditures, it is not an audit of performance. Mayor Jones asked if he was wanting to see if they were checking each lift station. John Champagne said that he was trying to compare it to an industry standard, and he is not sure that exists. Mr. Shackleford said that the only thing that they could compare the performance to would be the contract that the City executed with Gulf Utility. Mr. Shackleford said that they could audit and compare to see if they are performing the duties of the contract, per the schedule that was included in the contract. Mr. Yates said that the way that is manifested is by the weekly conference calls held at 9 a.m. every Tuesday.

Mr. Williams advised that regarding Lift Station 8, he was not here to be involved with the timeline where it was brought up. John Champagne asked if the company was. Mr. Williams advised that they were. Mr. Williams said that they recently identified Lift Station 2, which started ragging up multiple times, so through the process of the conference call he will list any type of calls that he had during the week.

Mr. Yates said that with all things considered, regarding the size and complexity of the system, they are pleased with Gulf Utility for the time being. Mr. Yates said that in a few years from now, when they have a much more complex system, the City might outgrow Gulf Utility, but he did not feel that they were at that point.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or f or any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation

regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

13. Convene into Closed Executive Session pursuant to the Texas Open Meetings Act at Sections 551.071 and 551.072 of the Texas Government Code to meet with the City Attorney to receive confidential legal advice about real property transactions; and Sections 551.071 and 551.074 of the Texas Government Code to discuss a personnel matter with the City Administrator and City Attorney.

    Mayor Jones convened into Closed Executive Session at 7:42 p.m.

14. Reconvene into Open Session and take possible action resulting from deliberations made during Closed Executive Session.

    Mayor Jones reconvened into Regular Session at 9:45 p.m.
    No action was taken following the Executive Session.

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.

ADJOURN

Dave McCorquodale moved to adjourn the meeting at 9:49 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Submitted by: Susan Hensley Date Approved: 08/09/2016
Susan Hensley, City Secretary

Kirk Jones
Mayor Kirk Jones

CITY OF MONTGOMERY, TEXAS ★ FOUNDED 1837 ★