MINUTES OF PUBLIC HEARING and REGULAR MEETING

January 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
	Jon Bickford	City Council Position # 1
	John Champagne	City Council Position # 2
	T.J. Wilkerson	City Council Position # 3
	Rebecca Huss	City Council Position # 4
	Dave McCorquodale	City Council Position # 5

Absent:

Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

John Champagne gave the invocation.

PRESENTATION OF COLORS BY SCOUT TROUP 491

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing:

1. Public Hearing regarding Initial Zoning Classification for newly annexed property located in the John H. Corner Survey, Abstract 8, Montgomery County, Texas. This property includes three (3) contiguous tracts of land of approximately 9.450 acres on the north side of State Highway 105 to Stewart Creek Road.

   Mayor Jones convened the Public Hearing at 6:04 p.m.

Mr. Yates advised that the Public Hearing was regarding the Initial Zoning of 9.450 acres of land on the north side of SH 105 to Stewart Creek Road that City Council annexed three months ago. Mr. Yates said that this property is known as the Rampy or Pizza Shack tract. Mr. Yates stated that the Planning and Zoning Commission has reviewed the information and is recommending that this property be zoned B-Commercial Zone.

There were no other comments made during the Public Hearing.

Mayor Jones adjourned the Public Hearing and reconvened the regular session at 6:06 p.m.

Reconvene into regular session:

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 recognized Logan Bonner, with Boy Scout Troop 491. Mr. Bonner stated that he was attending the Council Meeting as part of process for earning his Communication Merit Badge.

- Mr. Randy Bays, stated that his wife, Kristin Bays, is running for the 410th District Court in Montgomery County. Mr. Bays advised that his wife would be coming to a future meeting to introduce herself and talk about her campaign.

- Mr. Philip LeFevre stated that he came to discuss two matters. One regarding firewood. Mr. LeFevre said that when you drive up and down SH 105 you see people of all different sorts and origins selling firewood, and some can look disreputable. Mr. LeFevre said that in Montgomery, Lewis Johnson sells firewood and is one of the finest people he knows. Mr. LeFevre stated that Mr. Johnson worked for the school district for 20 years, and he just came

back from helping him inject cows. Mr. LeFevre said that Mr. Johnson was a diversified person, who does not do firewood just to make money, he does it as a social thing with friends. Mr. LeFevre said that it was almost like some of us would go to a restaurant and have coffee with friends. Mr. LeFevre said that Mr. Johnson spent quite a lot of time trying to get a permit, and he does not want any favors. He has done all the bonding and necessary insurance that he is required to do. Mr. LeFevre said that the City is right to have a rigorous process, which he is not criticizing the City, but one thing did upset Mr. Johnson, was the clause stipulating that he can only employ one person. Mr. LeFevre said if the City gave him a contract that stipulated how many people he hired, he would take it quite badly and would feel that the City was impinging on his business and his rights. Mr. LeFevre said that he is sure that there was not malintent. Mr. LeFevre said that Mr. Johnson was as straight as they come and a credit to the City, so he really hoped that the City could remove that clause from his contract.

John Champagne stated that all that aside, while he may be a model citizen and great person, he was more interested in the motivation of the City to limit an entrepreneur to one employee and asked if anyone could provide him with that information. Mr. Yates advised that information was in the Special Use Permit for selling firewood and he is not sure why that was put in there. Mr. Yates said that he thought it might be due to the parking or accumulation of people on what would otherwise be residential properties. Rebecca Huss stated that stating that the property on 149 was residential, would be a highly subjective term, because 149 is business pretty far down the road, even though there are residential homes. Mr. Yates advised Mr. Johnson that the Special Use Permit states that there can only be one employee on the site at a time, which does mean not just one employee. Mr. LeFevre said that a lot of the people that are with Mr. Johnson are friends and not employees. Mr. LeFevre said that both he and Mr. Johnson did not feel that the restriction of one employee was right, and he hoped that the City would deal with the matter the way that it should be dealt with.

Mr. LeFevre said that his second item, was regarding trees, and said that he was very nervous that the City would overreact to the clearing that has occurred on the Kroger site. Mr. LeFevre said that he wanted to state that he was not blaming the City for anything. Mr. LeFevre said that tract is zoned commercial, but is not part of his Planned Development District (PDD). Mr. LeFevre said that his PDD has the rights to require anyone to come to them with any plans, and they have the right of final approval. The commercial property on SH 105, previously with

Home Depot, they actually made them do a tree count. Mr. LeFevre said that five years ago when they entered into the contract they should have written the requirement for approval regarding trees and design of the building into the contract, but they missed it and it was more of a verbal agreement. Mr. LeFevre said that they had some turnovers in the developers company. Mr. LeFevre said that the tree count that they did included a few specimen trees, but there were not many of them. Most of the trees were not going to survive the next big storm that comes through. Mr. LeFevre said that more of an effort should have been done, and he takes the blame for that. Mr. LeFevre said that he hopes the City does not panic and do a bunch of laws and ordinances that further confuse the issue. Mr. LeFevre said that he thought the way to take care of the issue, particularly if you are doing a 380 Development Agreement, make the landscaping a requirement for the agreement. Mr. LeFevre said if they do a grant for a roadway that would be time to request and esplanade, etc. Mr. LeFevre said that it was too late to ask them to go back and plant trees, but they did assure him that they would do good landscaping and it would not be just bare concrete. Mr. LeFevre said if you look around down town there are beautiful oak trees planted about 60-70 years ago, so he is hoping they can use the 380 Agreements or have a planting program. Mr. LeFevre said that blame was theirs for not being strong enough to negotiate the contract to provide for the trees.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the regular meeting held on December 8, 2015.

Rebecca Huss moved to approve the minutes as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding adoption of a Proclamation recognizing Boy Scout Troop 491, particularly the recent Eagle Scout projects.

Mayor Jones read the Proclamation to the audience, with assistance from Boy Scout Troop 491 who recited the Boy Scout oath and pledge.

Mayor Jones noted that there are some of the Eagle Scouts present that worked on the projects mentioned in the Proclamation, and specifically thanked them as follows:

- Jack Vickers, C.B. Stewart Grave Project;
- Mason Ganahl, Stairs at Memory Park Project;
- Caden Miller, Pathway at Memory Park Project;
- Jeremy Buck, Fence at Memory Park Project; and
- Travis Wilson, Handrail and Path at Fernland Park Project.

Mayor Jones then made the presentation of the Proclamation.

Troop Leader Bob Vieau said that the five Eagle Scout Projects that were discussed accounted for over 1,000 hours of community service that the troop gave back to the community. Mr. Vieau advised that they are citizens of the community and most of the boys elect to do their Eagle Scout Projects in the area, and they will continue to do so.

Mayor Jones recognized another attendee at the meeting who is a Weeblo Scout, who is getting ready to move into Boy Scouts in the near future, and is a son of one of our City employees. Mayor Jones said that they are glad to have him present.

Jon Bickford thanked the Troop for their work.

Rebecca Huss moved to adopt a Proclamation recognizing Boy Scout Troop 491, particularly the recent Eagle Scout Projects. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding adoption of the following ordinance:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 9.40 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS;

REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Foerster advised that every time the City annexes a piece of property into its corporate limits, because the City has a Zoning Ordinance, there is a requirement that they identify what they want the property to be used as. Mr. Foerster said that in this case, the Ordinance provides that it will be used for commercial usage. Mr. Foerster advised that the property is along SH105, going from the area around Lone Star Parkway and going down to the Stewart Creek Road, which is east of the City. Mr. Foerster advised that this has gone through all the steps required for zoning.

Dave McCorquodale asked Mr. Foerster to clarify for City Council and the attendees that the process by which a City the size of Montgomery can annex land, versus the City of Conroe. Mr. Foerster advised that the City of Montgomery is a General Law City. A General Law City has limited authority to annex property within a half mile of its City boundaries. Mr. Foerster stated that half mile area is called the extra-territorial jurisdiction ("ETJ"). Mr. Foerster said that generally speaking, with a few minor exceptions, the City can only annex areas that are petitioned by the property owner located within the ETJ, which is what happened in this case. Mr. Foerster said that the other instance that is common within the Texas Local Government Code, is where a City has provided either water or sewer services, or both, to properties within the ETJ. Under the Statute, 43.033, the City could go on and involuntarily annex those properties served by the City's water and sewer services. Mr. Foerster said those are generally the two ways that the City can annex. Mr. Foerster said that almost all the annexation that he is aware of in the past few years has been done by petition by the property owner who wants to be in the City and wants City services, and those are the circumstances of the annexation being done tonight.

Dave McCorquodale moved to adopt the Ordinance to allow the Initial Zoning of the recently annexed property, described in Exhibit "A," as B-Commercial. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

5. Consideration and possible action regarding adoption of the following ordinance:
AN ORDINANCE CORRECTING CITY OF MONTGOMERY ZONING ORDINANCE NO. 2014-10, DATED JULY 15, 2014, WHICH AMENDS THE CODE OF ORDINANCES OF THE

CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY OF 46.078 ACRES AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS

Mr. Foerster advised that in doing some work on previous ordinances, the City Secretary discovered that there was a small clerical error in one of the zoning ordinances, 2014-10, adopted in July of 2014. This ordinance will clarify, for the record, the recital that set out the ordinance.

Dave McCorquodale moved to adopt the Ordinance clarifying the error in Ordinance 2014-10. Jon Bickford seconded the motion.

Discussion: John Champagne thanked the City Secretary.

The motion carried unanimously. (5-0)

6. Consideration and possible action regarding appointment of two (2) positions on the Montgomery Economic Development Corporation Board of Directors currently held by William G. Hanover and Cheryl Fox.

Mr. Yates advised that there are two appointments needed. The seats are currently held by William Hanover and Cheryl Fox. Mr. Yates advised that they received two applications for those positions by the two people that currently hold those positions.

John Champagne moved to accept the applications as submitted by William G. Hanover and Cheryl Fox and reappoint them both to serve on the Montgomery Economic Development Corporation Board of Directors. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

7. Consideration and possible action regarding Utility and Economic Feasibility Analysis of a 68-acre Subdivision, located north of the intersection of SH105 and Westway Drive.

Mr. Glynn Fleming presented the information to City Council regarding the 68-acre development located on the west side of town, just north of the Napa Auto Parts store, on SH 105. Mr. Fleming advised that in December John W. Cox Partners, LTD submitted an application for utility service that started the process for the Utility and Economic Feasibility Analysis.

Mr. Fleming advised that they have chosen to present this document in a draft form, for two reasons. First, when they initially met with the developer, the recommendation was made to the developer that they might want to present their information to both the Planning and Zoning Commission and City Council to talk about their land plan. Secondly, the City Engineer is in the early stages of thoroughfare planning for the City. They know of one item of particular concern is the ability to find more south thoroughfares from SH 105 and Lone Star Parkway.

Mr. Fleming reviewed the summary of the findings in the Feasibility Study for City Council. Mr. Fleming stated that out of the 68-acre tract, their current plans are to develop roughly 44-acres with the rest to be allocated to recreation and detention areas. Mr. Fleming said that initially they have plans for 100-120 home sites to be placed on lots that range from 60-75 feet in width. They also have plans for possibly another 75 townhomes to be placed on a 30-35 foot lot. Mr. Fleming said that early estimates are home prices to range from $250,000 - $300,000 for the full size lots, and $160,000 to $210,000 for the townhome size lots.

Mr. Fleming said that most of the findings were predicated on three things: the preliminary land plan, supplied by the developer; the Water System Analysis and Master Plan prepared by Jones & Carter; and the recently completed Sanitary Sewer System Analysis and Master Plan prepared by Jones & Carter.

Mr. Fleming said that the City does have adequate water capacity to serve this tract. They estimate their daily demand to be 77,000 to 78,000 gallons per day. Mr. Fleming noted that there was a spreadsheet attached to the report detailing current development that they have to track very closely to ensure that they are planning adequately for demand and capacity.

Mr. Fleming said that the City also has adequate capacity on the distribution side to serve this tract. Mr. Fleming said that the City currently has 642 active connections within the City, with hydro capacity to serve 875. Mr. Fleming stated that just the development that currently underway from the platting phase to homes actually being constructed, at some point in the relatively near future the City will exceed that capacity. Mr. Fleming said in the coming months, this is something that they need to monitor very closely.

Mr. Fleming said that also, on the distribution side, they had discussed, water that runs out to the west side of town, which is an area that is being served with inconsistent pressures. They need to

be very proactive on how they are going to rectify the situation in the coming months and years. So they are already underway with Capital Project No. 1, but they need to monitor development on the SH 105 corridor very closely because that will drive the timeline on how soon they upgrade that line.

Rebecca Huss asked whether they had updated their chart that shows if they want a project done by a specific time, it shows the date when they would need to start that project. Mr. Shackleford said that they could do that. Mr. Fleming advised that was a living document that he is working on.

Mayor Jones asked whether an elevated storage tank on the west side of town would suffice. Mr. Fleming said that an elevated storage tank was a costly option, where they would have to get water to it and up into it. Mayor Jones asked if this development would be a reason to say that they needed an elevated storage tank. Mr. Fleming advised that it was not at this time. Rebecca Huss asked if it was because they could not afford the elevated storage tank. Mr. Fleming advised if they had an infinite amount of money, they would put one out there. Mr. Fleming said one of the biggest challenges that they are facing right now is trying to accurately and appropriately prioritize what needs to be done.

John Champagne asked how they addressed the pressure issues on the west side of town. Mr. Fleming advised that initially they start out with Capital Project No. 1, which they currently have 60 percent of the construction drawings completed, which they expect to wrap them up in the next 30-45 days. Then they will move forward with the bidding process. Mr. Fleming said the original timeline on that was 4-6 months.

Jon Bickford said when they execute Capital Project No. 1, would additional capacity from a development, such as this one, have enough pressure and volume from that Capital Project to meet their needs. Jon Bickford asked if Mr. Fleming was saying that there might be additional requirements coming down the road for developments and they would have to do more. Mr. Fleming advised that they would have to do more City wide regardless of whether a development proceeds on the west side. Mr. Fleming stated that any development will have an impact, and strictly speaking, you have capacity in terms of water production and you currently have the ability to deliver water to the development within the minimum guidelines set by the State of Texas.

Mayor Jones asked if they have the ability to deliver to the other subdivision, this subdivision and the apartments. Mr. Fleming said that the City currently has 642 connections and 875 is the current threshold. Mr. Fleming said that the development that is already underway, absent the 68-acres, at some point in the next one to three years the City will exceed our existing capacity.

Rebecca Huss asked if the City should hit the State minimum for water production, would they lose the ability to have more connections, or would it be like the sanitary sewer, where at 75 percent you have to start planning. Mr. Fleming said that in order to remain in compliance they would have to plan and improve, but the requirements are not quite as delineated as they are on the sanitary sewer side. Mr. Shackleford said that TCEQ comes out and conducts an annual inspection on the City's water system and they look at a lot of things as part of that inspection. Mr. Shackleford said that they will look at the number of connections that the City is serving. So when they come out and do the annual inspection, and the City is close one year and then over the next year, they are going to write a deficiency letter. Mr. Shackleford said that as far as lead time goes, on the hydro tank it is easily 15 months from authorization, from beginning design to end of construction, and the tank is on line and operational. Mr. Shackleford said that typically that is a 20,000 to 30,000 thousand gallon hydro tank and they cost $250,000. Rebecca Huss asked how many connections that hydro tank would provide. Mr. Fleming said that it would exceed the next limiting factor and would be able to serve right at or over 2,000 connections. Mr. Shackleford stated that when the City is financially able to do so, an elevated tank on the west side would be the best thing for the City.

Jon Bickford asked what determines the current 875 capacity and asked if that was pumping capacity. Mr. Shackleford stated that there are four places that could be limiting; 1) hydro being the first one, 2) booster pumps, 3) ground storage capacity, and 4) water well capacity. Jon Bickford asked if there was a development east of the hydro tank would there be pressure that would offset that versus the development on the west side. Mr. Fleming said that it was not so much by geography as it was by connections. Mr. Shackleford said that it gets down to whether you can meet the 35 psi and not go below 20 psi.

Jon Bickford said that there are approximately 203 connections remaining available, and when you went through the developments how many additional connections would that be. Mr. Shackleford said that it would be almost 350 connections. Mr. Shackleford said that the Hills of Town Creek will take a year roughly to have houses on the ground connecting to the system, Kroger is a year

out, Waterstone and Terra Vista are about nine months out, so there is a little bit of play in the schedule. Mr. Fleming said that they know there are roughly 350 to 500 connections underway and at some point will be under development. Mr. Shackleford said that TCEQ will look at, if the City approves the plat and issues construction permits, the City has committed to provide capacity and should have that capacity.

Mayor Jones asked when the City should start looking at a new tank. Mr. Shackleford said within the next 45-60 days. Dave McCorquodale said if he is interpreting correctly, the particular item that they are discussing, which is the 68-acre development, is negligible in terms of the overall impact of what the City has online and planned. Mr. Fleming said that largely that was a fair statement. Mr. Fleming stated that 2,500 was the threshold for an elevated tank, which is about 6-8 years away.

Jon Bickford said that he would like to be careful when they start drawing conclusions, that if you turn a new developer loose, you know 100-120 homes are coming, and a lot of the development possibilities that they have they are not sure when they are going to start their next phase. Jon Bickford said that the development possibilities could be out a ways, so he felt that the City had to be really careful to say this could cause a more immediate impact. Jon Bickford said that they know the Hills of Town Creek is coming with 100 connections, this development will add another 100-120 connections, and they would be full. Jon Bickford said that other developments are possible developments, so they need to be mindful of that. Dave McCorquodale said that when you look at the 2016 column of the sheet, on what is in development, construction and what they have planned on they are looking at 850 connections, and 875 is the maximum.

Mr. Fleming said that on the sanitary sewer side they have adequate treatment capacity in the plant to serve this tract, including the other developments. Mr. Fleming said on the treatment side, they are good, City has adequate treatment capacity, but they will have to monitor it very closely.

Mr. Fleming said on the collection and conveyance side, they have three lift stations in particular, an existing sanitary sewer manhole on the north side of SH 105, just west of Westway Drive. Mr. Fleming said in all likelihood that is the manhole that this tract will flow into. Mr. Fleming advised that lift station is only operating at 40 percent capacity and is not in the best shape and needs some work. Mr. Fleming advised that Lift Station No. 2 is operating at 110 percent of capacity and is in fair shape, with some work needed. Mayor Jones said that in order to relieve the 110 percent

capacity they would have to bury more lines and add lift stations. Mr. Fleming said that they would have to increase the pumping capacity through upgraded pumps. Lift Station No. 1 is at 145 percent capacity. Mr. Shackleford advised that 3-4 times average flow is peak flow.

John Champagne asked if the pumping capacity increased with the two pumps that were installed. Mr. Fleming advised that was correct.

Mr. Fleming advised that this development would most likely need a Lift Station to convey their flow into the sanitary sewer system. Mayor Jones asked about the land other than the 44 developable acres. Mr. Fleming said they were largely in the flood plain.

Mr. Fleming said that regarding drainage and paving, early estimations show that they need to allocate approximately 8 acres to offsite detention and utilize some type of controlled discharge into one of the tributaries of Town Creek. Mr. Fleming said that there were a few recommendations on paving and drainage and things that need to be considered, and how will it be maintained, either by HOA, the City, etc. This has not been addressed yet, because this is in draft form and will need to go over with the developer. Mr. Fleming said that regarding paving they are looking at ways to get a possible north/south artery, which they could meet with the developer to address the roadway. Mr. Fleming advised that the preliminary development costs to be paid for by the developer is estimated to be $1.3 million, on a pro rata basis, which has been shared with Mrs. Cox, the developer.

Mr. Fleming advised that the financial feasibility, the development and anticipated values, based on what the developer provided to them, would add approximately $40 million to $47 million in assessed property valuation, and additional tax revenue to the City of approximately $105,000 to $120,000 in debt service, and approximately $58,000 to $66,000 in operations and maintenance.

Jon Bickford asked what all the $1.3 million would cover. Mr. Fleming said that would cover the offsite development costs, which will include water plant capacity, wastewater plant capacity, fixing problems with the lift stations, and fixing some of the short comings of the water and sanitary sewer lines.

Mayor Jones said the report was very thorough. Mr. Shackleford said that the conversation Mr. Fleming mentioned about the drainage, is a critical component to be able to move forward in

finishing up this Feasibility Study. Mr. Shackleford said that best way to describe it, when Mr. Fleming covered the options, this is planning the public streets, public drainage, for example, Lake Creek One and Two are private street developments and the cost of the drainage is being borne by the HOA. Mr. Shackleford said that as long as this is public City Council as the governing body has the responsibility of being in control of how the maintenance occurs. It doesn't mean that the City has to perform the maintenance.

John Champagne asked about the public streets versus private streets. Mr. Shackleford advised that Buffalo Springs streets were platted as public streets. John Champagne asked if the streets being public or private could be decided at the pleasure of the City and not bound by precedent. Mr. Fleming said that he would strongly advocate that the City and the developer come together to work that out. Mr. Shackleford said that if the HOA was in control of the streets, HOA's go out of business all the time, so it is better for the City to be in control. Jon Bickford asked if they had any concept of what maintenance costs there would be annually. Mr. Shackleford advised that typically mowing the detention pond could easily cost $20,000, repairs to the embankments could be $5,000 to $10,000. Mr. Shackleford said that some of their utility districts are factoring those costs in for a period of 20 years. Jon Bickford said that there is also the cost of taking care of the streets and everything else, so he would be interested in seeing that information to compare what they will be taking in versus what it will cost. Jon Bickford said that he wants to understand how much he is going to get in from the development versus the cost for maintenance. Rebecca Huss said that the debt service goes to a completely different fund and the general expenses are not taken out of those funds. Rebecca Huss advised that you could be paying in $30,000 to $50,000 of expenses on $60,000 to $66,000 in revenue. Mr. Shackleford advised that regarding streets and storm sewer pipes, the first 10-15 years there would more than likely be no expense.

Mr. Shackleford said that if City Council is comfortable with what they have identified through the Feasibility Study and the items summarized in the back of that report, regardless of the public policy and funds for maintenance, then at the next meeting you could say that you are okay with the Feasibility Study and accept it for what it says, but it does not require City Council to take any action other than accepting the report. Then there would be discussions with the developer if they choose to go forward.

Jon Bickford asked what action is being requested tonight. Mr. Shackleford said that there was not action, this was just an update, and the action would be the public policy items. Rebecca Huss

asked Mr. Yates to schedule a workshop to discuss public policy on public versus private streets. Mr. Yates advised that he would add it to the items.

Mr. Shackleford announced that Mr. Fleming had received a very good Christmas present in 2015 he passed the Professional Engineers exam. City Council congratulated Mr. Fleming.

8. Discussion regarding sketch plat for possible 68-acre Subdivision, located north of the intersection of SH105 and Westway Drive.

Mr. Fleming introduced Ms. Marjorie Cox, developer of the tract of land that was just discussed in the previous item. Mr. Fleming advised that Ms. Cox had made a presentation to the Planning and Zoning Commission on December 28, 2015. Ms. Cox received some very positive feedback from the Planning and Zoning Commission.

Jon Bickford asked what the expectation was for this Agenda item and whether it was just information, without any action. Mayor Jones said that they would not be taking any action, but they would be able to make comments.

Ms. Marjorie Cox presented the concept for the proposed 68-acre development to City Council. Ms. Cox stated that it had been recommended that she make a presentation to the Planning and Zoning Commission, which she did two weeks ago. Ms. Cox said that they have met with the Montgomery EDC and the City Administrator to see what the process would be and the zoning. Now she is here to present the concept to City Council. Ms. Cox advised that they still had quite a bit of due diligence on the tract with the utilities information that they received today, to see how they could put that into the project.

Ms. Cox said that they have a couple of builders that are interested in building townhomes would be in the $160,000 - $210,000 price range, and then single family homes phased in over 5-7 years. Ms. Cox advised that the concept for the development would have 68-acres, with 44-acres of development acreage and 8 acres for detention. Ms. Cox said that they would have about 16 acres for recreation for such amenities as, walking trails and parks and other things. Ms. Cox advised that she would have about 70-75 townhomes on 30 foot lots. The townhomes would be one unit with a shared driveway, there would be landscaping, buffers and a HOA to maintain the esthetics of that development. Ms. Cox said that the single family lots would 70-75 foot lots, with 100-140 homes.

Ms. Cox said that the townhomes would be $160,000 to $210,000, and the single family homes would be $250,000 to $350,000.

Jon Bickford asked whether Ms. Cox was aware of the development, Terra Vista, on FM 1097 that will add another 100-150 homes that are in this same price range. Jon Bickford said that they had the same rationale as Ms. Cox for their development that are in the $150,000 to $200,000 range. Ms. Cox said thank you and she will check into the information.

Jon Bickford asked if they would just be building the lots and then selling the property. Ms. Cox said that was correct.

Dave McCorquodale asked what builders they have worked with in the past. Ms. Cox advised that they have worked with First American Homes, Kendall Homes, Style Craft, Brighton Homes and Castle Rock Homes.

Ms. Cox said that she wanted to present the concept to City Council to see if it would be feasible to move forward based on what City Council thought after review of the project. Ms. Cox said that they currently have two points of access, which they are continuing to work on as part of their land plan. Ms. Cox said that other issues that would affect the townhomes would be the topography, because there is about 30 feet of topography on that site, so they will have to look at the utilities but also the topography for building homes.

Ms. Cox advised that they have two points of access off of SH105 and they are looking at another point of access from the Montgomery ISD and possible access from other property owners. Ms. Cox said that some of those things may prohibit some of their development would be the topography. Ms. Cox said that drainage would be considered in the final draft.

Ms. Cox said that the townhomes would be 70-75 units, 1,400 to 2,000 square feet, with values from $62,000 to $210,000. Ms. Cox advised that the mortgage payments would be between $1,400 to $1,800 per month, plus taxes and insurance. Ms. Cox said that the townhomes would be very comparable to renting an apartment or condos. They would plan the landscaping with buffers so that it would aesthetically pleasing and would have an HOA to maintain strict requirements for maintenance, parking and other factors.

Dave McCorquodale stated that what they would end up with would be a 25 foot lot house, with five foot on the one side and a shared wall on the other side, so the landscaping buffers would not be between the houses, but would be in the front and back of the residence. Ms. Cox said that they would try to plan the best way possible to increase the visibility and increase the property value. Ms. Cox advised that she did have videos and photos of comparable projects. Ms. Cox stated that the townhomes are duplex units that when combined would total 3,000 to 3,500 square feet for both units.

Jon Bickford asked about the size of the lots. Ms. Cox advised that it would be two 30 foot wide lots combined for the duplex townhome unit, which would be 60 feet wide, with a five foot set back on the side. Ms. Cox advised that the properties would be fee simple lots.

Dave McCorquodale asked about the price point for townhomes comparable to the ones in The Woodlands. Ms. Cox said that she did not look at the price point for The Woodlands, but the developer is looking to building in the range of $160,000 to $210,000. Dave McCorquodale asked what price range the townhome would be for one such as the example provided. Ms. Cox said that adding stone, etc. would be upgrades, which the builder would have a standard and then there could be upgrades added similar to a single family homes. Dave McCorquodale asked how active the developer would be with the HOA. Ms. Cox advised that they serve on the HOA Board and then as more lots are sold and residents move in, they will begin to release the HOA over to the residents.

Jon Bickford advised that his son is building a housing development on the other side of Conroe with hundreds of homes and investors are buying them up to renting them as fast as they can. Jon Bickford said that there will be a lot of rentals in this development.

Mr. Fleming advised that the one thing that stood out in the development was the 30 – 35 foot lots, and that was why they had suggested that Ms. Cox present the information to the Planning and Zoning Commission and City Council to get some thoughts and feedback before they proceed further.

Mayor Jones said that he felt that this project was a better development than three story apartments. Rebecca Huss said that one of the things that they had discussed before was the request for variance for the 60 foot wide lots, 7,200 square feet in the $250,000 to $350,000 range is not actually something that fits what they have discussed in terms of the desirability to have age diversity within

the City. Rebecca Huss said that the lots in the back of the property don't really fit that and goes back to what they have talked about before where the construction and variances are all about profit. Rebecca Huss said personally she was less inclined to be enthusiastic about that because there is no reason why the lots have to be that size and require a variance request, and the single family homes in the back she would have to do more research and see what it would really look like. Rebecca Huss said that there is no reason for the lots to require a variance for the single family homes other than being able to fit more homes on the development. Ms. Cox said that the builders have advised her that the interest in in the 60 foot lots, so if they are unable to develop those and they go back to the market with 75 foot lots.

Ms. Cox said that there is not a high profit margin with this property because of the topography. Ms. Cox said that they will work with the land planning and determine what would be something that could be approved, and then go to the market and the builders and see what type of interest they have in the project. Ms. Cox said that they may or may not be able to make the project work.

Dave McCorquodale said that when he bought his home ten years ago, a 15,000 square foot lot with a 1,200 square foot house, but if that house, which they love, was on a 6,500 square foot lot they would have driven right past it.

Jon Bickford stated that one of the big problems that he has is the acreage of usable land, and they just had the presentation of the number of water connections in the City, and they are talking about taking one third of those connections remaining and sticking them in this little place. Jon Bickford said that this will be a highly concentrated development in a small area, which personally is not why he moved to the City and people moved here not to be in that kind of environment. Jon Bickford said that he would not be a big supporter of any lot variances or high density development, because he does not think that is what the citizens' want, which is the feedback that he gets from his constituents.

Mayor Jones said that in his opinion the 75 foot lot line was intended for the middle of town and the outlying areas could fall under other criteria if the project was right, which is kind of how they have made their decisions in the past. Mayor Jones said that the Council concerns are lot size and concentration. City Council thanked Ms. Cox for coming and presenting the information. Rebecca Huss thanked Mr. Fleming for bringing the information to City Council early rather than waiting until everyone has work and money involved in the project.

9. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING DIVISION 3, "WATER AND SEWER MAIN EXTENTIONS," OF CHAPTER 90, "UTILITIES," OF THE CITY OF MONTGOMERY CODE OF ORDINANCES, CONCERNING THE EXTENSION OF WATER OR SEWER UTILITY LINES AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; JURISDICTION; PURPOSE AND SCOPE; DEFINITIONS; EXTENSION OF RETAIL WATER OR SEWER SERVICES BY DEVELOPERS AND NON-DEVELOPERS; PRO RATA CHARGES TO INTERVENING CUSTOMERS DESIRING TO CONNECT TO WATER OR SEWER UTILITY EXTENSIONS; ENFORCEMENT AND PENALITIES FOR NONCOMPLIANCE; SEVERABILITY; REPEALING PORTIONS OF ORDINANCE NO. 1996-6 AND OTHER ORDINANCES IN CONFLICT; TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING EFFECTIVE DATE AFTER PUBLICATION.

Mr. Foerster advised that the City Council in the past has been looking at the existing Chapter 90 of the Code of Ordinances relating to water and sewer utility extensions. Mr. Foerster stated that one of their concerns was how they go about dealing with customers who will be connecting onto the line extensions so that both the developer, individuals, and many cases the City, could receive some kind of pro rata contribution back for the expense of the line extension. Mr. Foerster said that this Ordinance is designed to work on that issue. Mr. Foerster said that it also provides for additional definitions for clarification. The City Engineers have assisted with the recalculation of the existing Ordinance in terms of how they go about establishing the amount that any customer will be paying for the service and the details of the calculation.

Rebecca Huss noted that on Exhibit "A" page 2, the Utility and Economic Feasibility Study definition should be in italicized.

Rebecca Huss said that on Page 4, Section 11, she wondered if the pro rata includes the upsized amount. Mr. Shackleford said that it would depend on who was paying for the upsizing. Mr. Shackleford said that if the developer is wanting to put in a certain size line and the City is wanting to upsize the line, then whoever is buying into that line they are paying the pro rata share that the City and the developer will receive a portion.

John Champagne stated that the Ordinance gives the City and the developer a number of options to recoup their costs. Mr. Shackleford said that the primary thing is if there are a number of developers sharing on the line, the City will be doing the collections. Mayor Jones asked if this could be misconstrued as an impact fee. Mr. Shackleford said that it could not. Mr. Foerster said that this would be a reimbursement and the City is not acquiring capital. Mayor Jones asked if the funds received would have to be put into a special fund or would it go into general fund. Mr. Foerster said that decision would rest with City Council. Mr. Shackleford said that he would recommend setting it aside for future infrastructure.

After discussion, John Champagne moved to adopt an Ordinance of the City Council of the City of Montgomery, Texas, Amending Division 3, "Water and Sewer Main Extensions, of Chapter 90, "Utilities," and accept the Ordinance, subject to review by the City Engineer. Jon Bickford seconded the motion.

Discussion: Rebecca Huss asked whether Page 6, Section 7(b) that states "that the City will also pay to the original developer pro rata charges" should state "pro rata repayment" because that kind of indicates that they are actively taking from the budget as opposed to just being a middle man. Mr. Shackleford said that he will look at that information, because he had a comment off to the side.

Rebecca Huss stated that the fourth item is on Page 7, Section 90-106(1) where there is a "?" question mark at the end. Mr. Shackleford stated that was probably a typo.

John Champagne asked who crafted the Ordinance. Mr. Shackleford said that it was an existing Ordinance that they modified. John Champagne asked who modified it. Mr. Shackleford said that he had a hand in it, along with Mr. Foerster. Mr. Foerster said that there were several revisions made over several months.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding City Community Center Improvements.

Mr. Yates presented information to City Council regarding the repairs to the Community Center, with the addition of rewiring the building. Mr. Mike Muckleroy advised that the wiring in the

Community Center is the original wiring that is put in with connections being taped instead of using wire nuts.

After discussion, City Council concurred that Mr. Yates would go out for bids on the electrical work at the Community Center, and bring it back to City Council for approval. Jon Bickford said if there is a safety issue, don't use the building until the repairs are made.

No motion was made.

11. Consideration and possible action regarding approval of construction drawings for the Hills of Town Creek, Section Two.

Mr. Fleming advised that the developer is requesting permission to proceed under the proposed alternate platting process that was discussed at the Joint City Council and Planning and Zoning Commission Workshop held earlier this year. Mr. Fleming advised that right now they are wanting approval of their construction drawing so they can begin construction of the paving and utilities, which will be totally at the risk of the developer, because they do not post a guarantee and the City has no liability. Rebecca Huss said that the final plat has not been approved nobody feels like they have been cheated out of their money. Mr. Fleming advised that this was presented to the Planning and Zoning Commission on December 28, 2015 and they voted unanimously to approve the drawings.

Jon Bickford asked whether Mr. Fleming was satisfied with the alternate process and they would not miss anything. Mr. Fleming said that was correct. Mayor Jones said that the City Engineer had proposed the alternate process.

After discussion, Jon Bickford moved to approve the construction drawing under the alternate platting process for The Hills of Town Creek, Section Two, as submitted. John Champagne seconded the motion, the motion carried unanimously. (5-0)

12. Discussion regarding an Open Carry Notice Policy.

Mr. Foerster advised that at the December Council Meeting, he had presented information about the Open Carry Law that would go into effect on January 1, 2016. Mr. Foerster said that the

Attorney General has issued an opinion since then with respect to City Halls, the premise of any government offices that are utilized by the court can prohibit open carry for hand gun carriers. Mr. Foerster said that the opinion seems to have narrowed the rule and on a case-by-case basis you have to look at the location of the Municipal Court Clerk's office and that area used by the court would not be permissible for carrying a hand gun. Concealed gun holders know that they can't carry a weapon into the Municipal Court or in the court offices.

Mr. Foerster said that he would recommend placing on the front doors to City Hall "City Hall and Municipal Court Office" that would people on notice that there is a court office in the building. Mr. Foerster said that this City Hall when you turn to the right you are at the City offices, but if you turn left you would be prohibited to carry on that side. Rebecca Huss said that Ashley has been cross trained to serve as a Deputy Court Clerk so she would function as both.

Mr. Foerster recommended the following items:

- Regarding City Hall – it would be his advice, based on his reading of the Attorney General's Opinion, that if somebody walking into the building that has a CHL should not be prohibited from walking through the door. They are not permitted into secured areas. Mr. Foerster said that when you have Municipal Court in session, CHL holders know that they can't enter. Mr. Foerster said that he felt that having "City Hall and Municipal Court Offices" on the door would be helpful. John Champagne said if a CHL person comes into Municipal Court, they know that they are breaking the law. Mr. Foerster said that if they come in the receptionist could tell them that they are in violation of the law, and ask them to step outside. John Champagne said if they make City Hall anti-gun, there is supposed to be an officer here tonight that is not here, so in his mind it is the most ridiculous thing to keep a trained licensed carrier that is a law abiding citizen from carrying a weapon into a place such as this.
- City Ordinance – Mr. Foerster said that by Ordinance they could prohibit, with the exception of peace officers, City employees from open carrying a weapon into City facilities. They could keep their weapon in their vehicle.
- Governmental Meetings - Mr. Foerster said that the other issue was whether they wanted a CHL carrier to be able to carry a weapon into a governmental meeting, where it is subject to the Texas Open Meetings Act. Mr. Foerster said that could include City Council, Planning and Zoning Commission, and the Montgomery EDC. Mr. Yates advised that he polled the City employees and they would like to be able to carry their concealed weapon

into City Hall. Rebecca Huss said that it looks like, from Mr. Yates comments, that staff did not want open carry at City Hall. Mr. Yates said that was correct, but they would like to be able to carry licensed concealed weapons. Jon Bickford said that the sign on the front door is just alerting people that there is a Municipal Court in the building. Mr. Foerster said that they could prohibit open carry only for City employees who have a CHL, which would have to be by Ordinance. John Champagne said that he would not vote for an Ordinance that would prohibit an employee the right to choose whether or not to open carry. Mayor Jones said that the Ordinance could say that the policy would be determined by the City Administrator. John Champagne said that a company has the right to do that. Mr. Foerster said that he would recommend not even putting that in the Ordinance, just to leave it alone, because right now it is not addressed and they can carry their weapon into City Hall. Mr. Foerster said that he would think that the employees would be able to say that they were not comfortable with open carry and the employee carrying the weapon would respect their feelings. Mr. Foerster said that they could put up the sign 30.07 for the open meetings, and then take it down after the meeting, which would allow a CHL to come in with a concealed weapon.

Mr. Foerster said that the City of Willis has bullet proof glass and they are not even worried about someone coming in with open carry.

Dave McCorquodale said that he is in favor of no open carry at governmental meetings, primarily because before there was a meeting at the Historic District that got pretty rowdy where one man talked about "taking guns out of his cold dead hands." Dave McCorquodale said in an open forum to have a fair dialog without intimidation, they need to not allow open carry. Rebecca Huss agreed with no open carry in the open meetings. Mr. Foerster said that they can always revisit the Ordinance if it is not working out.

Mr. Foerster said that if he understood correctly, the Ordinance that City Council is considering would only exclude open carry in governmental meetings, and would not address the issue about City employees and whether they can open carry, and would leave that matter alone at this time. Mr. Foerster said that at the discretion of the City Administrator, they could post the information on the front door regarding Municipal Court Offices being located in the building. City Council concurred with that information and

plan. Mr. Foerster advised that he would have the Ordinance to present at the next Council Meeting.

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.

There were no inquiries made.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 8:42 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Submitted by: _____ Date Approved: 01/26/2016
Susan Hensley, City Secretary

CITY OF MONTGOMERY, TEXAS ★ FOUNDED 1837 ★

_____
Mayor Kirk Jones