

## MINUTES OF REGULAR MEETING

January 26, 2016

### MONTGOMERY CITY COUNCIL

#### CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:02 p.m.

Present:       Kirk Jones               Mayor  
                  John Champagne       City Council Position # 2  
                  Rebecca Huss           City Council Position # 4  
                  Dave McCorquodale   City Council Position # 5

Absent:        Jon Bickford           City Council Position # 1  
                  T.J. Wilkerson       City Council Position # 3

Also Present:  Jack Yates           City Administrator  
                  Larry Foerster       City Attorney

#### INVOCATION

John Champagne 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 Public Hearing and Regular Meeting held on January 12, 2016.

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

### **CONSIDERATION AND POSSIBLE ACTION:**

2. Consideration and possible action on department reports.

- A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates advised that he had met with several developers during the month. Rebecca Huss asked Mr. Yates about his meeting with Mr. Bowen regarding the Waterstone Development, and whether the waterline issue had been discussed.

Mr. Yates advised that they had discussed the waterline. Mr. Yates advised that Mr. Bowen had said that when he got the plans from the engineer, he would consider placement of that line himself. Mr. Yates said that they gave him a deadline to respond back on the Wednesday before the first City Council Meeting in January and they did not hear back from him. Mr. Yates said that based on previous action by City Council they are going to put the project out for bid. Mr. Yates said that when they receive the bids, they will then ask Mr. Bowen for the funds. Mr. Yates said that if Mr. Bowen pays the funds that will be great. Mr. Yates advised that if Mr. Bowen does not pay for the contract, then they will bring the bids to City Council to award the bid, and ask City Council to discontinue the Development Agreement with Mr. Bowen. Mr. Yates advised that these item(s) would be on the Agenda for one of the meetings in February.

Mr. Yates reported that they now had a new permit processing software that would streamline the process and help the clerk with her duties. Mayor Jones asked whether the software would be on a future Agenda to be presented to City Council for approval or was it done by Mr. Yates. Mr. Yates advised that the cost was approximately \$2,700

and was in the budget, so it will not need additional action and he felt that it was worthwhile to do.

Mr. Yates stated that he had discussed Baja Street drainage with County Commissioner Meador, who said that he would try to work out a couple of days of gradall time. Mr. Yates said that he was also checking on a couple of contractors working in the City to see if they can do the job and the City pay for the work, in the interest of getting the job done. John Champagne said that they need to get the job done.

Mr. Yates advised that the Automatic Water Meter Reading System installation was approximately 75% percent complete. Mr. Yates said they won't know how the system is doing until they have all the meters installed and do a mass reading at one time. Mr. Yates said that the contractor had advised him that with every meter that is installed they check the signal and their office is receiving the signals.

Council Member T.J. Wilkerson arrived at the meeting at 6:12 p.m.

- B. Public Works Report – Mr. Mike Muckleroy presented his report to City Council. Mr. Muckleroy advised that they had 10 water taps, 6 sewer taps, 4 water leaks and 1 sewer inspection during the month. Mr. Muckleroy stated the Fernland docents reported that there were a total of 818 visitors for the month and they provided 28 tours. The lighting at Fernland was installed and looks very nice. Mr. Muckleroy advised that they have repaired some of the walkways with crushed granite due to rain damage, and they are keeping them sprayed with weed killer since they do not have the probationers working at the park.

Rebecca Huss asked if they still had not worked out the issue of the people on probation working at Fernland. Mr. Muckleroy advised that they had not worked it out and he did not think that it was going to happen. Rebecca Huss said that it did not make any sense because they are no closer to a school than they were before. Mayor Jones asked who was the final ruling authority on that issue. Mr. Yates stated that Mr. Don Carter had worked his way up the chain as far as he could go, which is a supervisor at the Montgomery County Detention Center. Rebecca Huss said that she had asked the day

care to check with their licensing person, and they advised that there was no restriction, as far as they knew, with the State, regarding using probationers. Mr. Muckleroy said that he had been advised that there would not be an issue as long as the day care was closed. Mr. Muckleroy stated that the supervisor at the Detention Center knows that on the weekend the day care is closed, but chose not to allow it. Mr. Muckleroy said that it was unfortunate because the probationers had done a lot of work out there. John Champagne asked if the supervisor with Montgomery County had been identified. Mr. Yates advised that he would check with Mr. Carter. Mayor Jones said that he wondered if something could be worked out, because he would hate for it to just die here because somebody said no. John Champagne asked whether the probationers mainly came on Saturday, because he did not remember them ever coming during the week. Mr. Muckleroy said that they usually came on Saturday, but there was one time when they came on Saturday and the day care was having a function on the same day. Mayor Jones said that it seemed like they could work around scheduling. Rebecca Huss asked if Mr. Muckleroy could check with Mr. Carter to see who the last person was that he talked to regarding the matter. Mr. Muckleroy said that he would check on that information.

- C. Police Department Report – In the absence of Chief James Napolitano, Lieutenant Joe Belmares presented the report to City Council. Lt. Belmares advised that the report was not completely finished with all the statistics and numbers because Montgomery County switched over to a new system in late December. Lt. Belmares said that as far as the reports, traffic stops and violation, those numbers are correct. Lt. Belmares stated that their officers continue to remain busy, and as the City continues to grow, so will the call volume.

Lt. Belmares and Officer Bracht attended grant writing school. Rebecca Huss asked if they used professional grant writers or whether they wrote their own grants. Lt. Belmares advised that there was a site that specifically handles law enforcement grants, but if he can get them for free, that is what he will do, because it is basically rewriting what someone else has done. Lt. Belmares said that he was able to do a lot of networking with people at the seminar and got some valuable information.

John Champagne asked if the Department needed anything. Lt. Belmares said that they did not need anything, but reported that they had brought Officer Thompson on patrol since he has finished his training. Lt. Belmares advised that the department has made the position of warrant officer available for the officers. The officers have been given a deadline to submit a letter of interest for the position, and depending on the number of officers that apply they will sit down and have an oral board to determine who will be best for the position. Lt. Belmares said that the warrants officer will also help with code enforcement and other duties as assigned. John Champagne asked if Sergeant Lehn was involved with the process. Lt. Belmares advised that she was involved.

D. Court Department Report – In the absence of Ms. Rebecca Lehn, Court Administrator, Mr. Yates presented the report to City Council. Mr. Yates advised that there had been 331 cases filed during December 2015 and the yearly citations and revenue had more than doubled from last two years.

E. Utility/Development Report – Mrs. Ashley Slaughter, Utility Billing Clerk, presented her report to City Council. Mrs. Slaughter advised that there were 16 new accounts totaling 534 active accounts, with a total revenue of \$51,222.43. Mrs. Slaughter advised that they had 2 permits issued, 1 commercial and 1 residential for a total revenue of \$28,995.51. They had 5 bookings for the Community Building for a total of \$995.00.

John Champagne asked about the 34 idle water accounts and asked if that included new bills. Mrs. Slaughter advised that it did not include new bills, but permits for new taps that are waiting to be hooked up. John Champagne asked what else was included in the idle number. Mrs. Slaughter advised that it would be accounts that are active accounts but do not have active water usage. Dave McCorquodale said that would be like an irrigation meter that just is not running during this time. Mrs. Slaughter said that was correct, possibly someone that cut off their irrigation for the winter.

Mrs. Slaughter advised that the utility billing went live on January 19, so residents can go to the web site and register to pay on line. Mrs. Slaughter said that she is working

with the bank to get automatic bank withdrawal for the customers. Mrs. Slaughter said that there have been 18 people that have signed up and three have paid their accounts.

Rebecca Huss asked about the City account consumptions, where it shows the Community Building irrigation was almost as much as Memory Park in November and December. Mayor Jones said that he did not think that the City should be watering anything right now. Mrs. Slaughter said she would check on the information. Dave McCorquodale asked whether the City had rain sensors on their system. Mr. Muckleroy said that they did have it completely turned off in December just before the Christmas Celebration. Mr. Muckleroy advised that he would look at the system. Rebecca Huss said that she thought it was definitely a lot of water for a small area. Mr. Muckleroy said that it definitely was not a leak, because when they read the meters every month they check them.

John Champagne asked Mr. Yates if he had decided how the City's water usage cost would be accounted for. Mr. Yates advised that for Memory Park and Fernland he was going to write a check from the general fund to the utility fund. John Champagne asked if they had to actually write a check. Mr. Yates said they could either write a check or do a journal entry. John Champagne said that they would talk more about that later.

- F. Water Report - Mr. Mike Williams presented his report to City Council. Mr. Williams said that they had responded to 7 district alerts, which is down from last month that was 14 alerts. On November 17, 2015 lift stations 2, 3, 8 and 10 went into high wet well due to heavy rain. Lift station 3 and 8 had to be pulled and cleaned. Mr. Williams advised since the upgrade to Lift Station 8, they have not been called out, this was just before the upgrade.

Mr. Williams advised that the Cowboy Church called in for low pressure, but upon arrival the operator found the pressure to be 40 psi, which is normal pressure for that side of town. Mr. Williams stated that Lift Station 2 called for high wet well on December 12 and December 13, 2015, and in both instances all 3 pumps were running but could not keep up with flow coming into the lift station due to heavy rain.

Mr. Williams stated that since calibration of the totalizer at Lift Station 2 the previous month, they recorded total flow of 1,517,035 gallons, which is 74.2% percent of the flow at Stewart Creek wastewater plant. Rebecca Huss asked if Mr. Williams knew what percentage of the 1.5 million gallons was rainwater, which would be different from the water sold, minus the volume through the pump, which should be a negative number and your infiltration number. Mr. Williams said that was correct, and said to meter that would be almost impossible. Mr. Williams said that Mr. Muckleroy would be smoke testing the sewer system to find the weak spots.

John Champagne asked about the Cowboy Church, and whether the pressure fluctuated say from 50 psi to 40 psi, and whether it ever got to 50 psi. Mr. Williams said that in his experience, this side of the City has never gotten to 50 psi. John Champagne asked what they were doing for them to think that the pressure was low. Mr. Williams said that the Cowboy Church had a plumber come out and his pressure gauge was inaccurate and was saying it was at 30 psi, when it was actually 40 psi. Mr. Williams said that for the most part Water Plant 3 runs everything, but when the pressure goes down to 40 psi Water Plant 2 booster will come on and pressurize that part of the City. Mr. Williams confirmed that 40 psi was the minimum pressure. Mayor Jones asked what pressure they were shooting for. Mr. Williams said that they were working to keep just Well 4 running.

Mayor Jones said regarding the infiltration issue, a few years ago they made a big effort to go around the City to look for obvious infiltration points, so he was wondering if they needed to do that again, or was that something that they do as part of their normal tasks. Mr. Williams said if you have a sink hole, that is a dead giveaway that there is a broken sewer line, but it should be standard practice to periodically do checks. Mr. Williams said that they found a main leak last week that was draining directly into the sewer line.

T.J. Wilkerson asked how often they do line flushing. Mr. Williams advised they did it once a week. T.J. Wilkerson said that he knew that there were people on FM 1097 that were calling because of brown water. Mayor Jones asked if they would have brown water due to a break. Mr. Williams said that typically if there is high demand

on a line, higher than usual, it can stir the lineup. Rebecca Huss said that with the new meters going in, she expected that when they disconnected the old meter and connected the new meter, they would make sure that no dirt got in the line, but that is not how it works. Rebecca Huss said that the workers were very nice, and while she was standing there watching them work, they asked if she would like them to clean out the line. Rebecca Huss asked the worker if she needed to have that done, and he said yes definitely. Rebecca Huss said that there was no door hanger, so a lot of people are probably getting brown water from the meter installation process.

Mr. Williams stated that they treated 2.044 million gallons at the sewer plant. Mr. Williams advised that they had sold 4.997 million gallons of water and they were able to utilize Well #4 at 93%. Mr. Williams stated that they were 79% percent accountable for the water.

Dave McCorquodale said that with no flushings or leaks this month, why was the water accountability is at 79% percent, because could not tell from the information on page 13. Mr. Williams advised that the most accurate numbers are on page 11 of the water report. Rebecca Huss said that either way, 80% percent accountability is not that great. Dave McCorquodale asked if they had always been pretty close to the 80% percent. Mr. Williams advised that the new meters should give a more accurate account of the water that is being sold in the City versus being pumped. Mr. Williams said that he would typically like to see the accountability up to 95% percent. Mr. Williams said that with water meters they are usually 88% percent accurate. John Champagne said that the return on the investment for the meters should be pretty quick.

- G. Engineer's Report – Mr. Glynn Fleming, Associate Engineer, presented his report to City Council. Mr. Fleming said that they had completed the Sanitary Sewer System Analysis and Master Plan for presentation to City Council tonight. The Texas Capital Fund Grant utility extension for both Kroger and Pizza Shack are underway.

Capital Project No. 1, Water Distribution System Analysis and Master Plan, GST Backfill, is ongoing and they are wrapping up the engineering design. Mr. Fleming

advised that they would meet with the Water Operator and Public Works this week to address any of their comments.

Mr. Fleming stated that Capital Project No. 2, Water line across Town Creek Bridge, as Mr. Yates has stated they feel that they are prepared to advertise for bids in the next two weeks.

Mr. Fleming reviewed the plan reviews that are ongoing. Mr. Fleming said that they have already returned the review comments to Heritage Place Medical Center on January 15, 2016, and they are waiting for revised drawings. Mr. Fleming noted that there was also a letter included to the developer from the City Administrator stating the City's desire to see two mature trees fronting SH 105 preserved.

Mr. Fleming stated that Lake Creek Village, Section Two, has submitted revised drawings that they are prepared to recommend approval. Buffalo Springs Shopping Center, Phase II, had their final plat submission approved by the Planning and Zoning Commission yesterday and is on the agenda for approval.

Mr. Fleming said that Waterside Estates, Section One, submitted a revised preliminary plat, which they reviewed. The plat along with the variance requests were submitted to the Planning and Zoning Commission yesterday, and is also on the agenda for consideration tonight.

Mr. Fleming reported that key construction has been mobilized at the Kroger site, and underway with their earth work and clearing. Mr. Fleming advised that on January 20, 2016 they met with CDA Architects, Gulf Cost Commercial Group, Terra Associates, and the City Administrator to discuss development of a 2-acre tract located on the northeast corner of SH 105 and Lone Star Parkway.

Mr. Fleming said that they continue to have their weekly operations calls. The Annual Water Plant Inspections conducted by TCEQ being coordinated with Public Works and the Operator to be scheduled. Mr. Fleming said that he expects to seek authorization within the next month to move forward with those inspections.

Mr. Fleming advised that today they conducted the one-year warranty inspection of Water Plant No. 3 Improvements Project, which they have a minor punch list of items that they will get taken care of in the next couple of weeks.

Mayor Jones asked about the Kroger project, stating that he had heard that they were on hold because they have to get a permit from TCEQ to get rid of the dirt, and then they must find a State approved site to harvest dirt to bring into the site. Mr. Fleming advised that some of the material contained in the dirt that they were stripping off the site that would be entirely possible. Mr. Fleming advised that he stops by the site at least one time per week.

Mayor Jones asked what could possibly be contaminating the dirt. Mr. Fleming said that he had not heard anything about that problem. Mr. Fleming said that he understood that the Kroger Project had encountered some soils that were not quite the quality that they had expected and was not indicated on their reports. Mr. Fleming said that they have had difficulty stripping vegetation off the site and grading, much less trying to build a structure. Mr. Fleming said that they have been forced to step back and see what they can do to dewater that site. John Champagne asked whether the water table was higher than they expected. Mayor Jones said that there is a spring located near there. Mr. Fleming said that was his understanding, and maybe the soils were more saturated along with the wet Spring that they had, did not help. Mr. Fleming commented that the Rampy Pond, which is just above that location might be seeping into the soil. Mayor Jones said that it was his understanding that the Rampy Pond is spring fed.

Mayor Jones asked Mr. Fleming to advise if he finds out anything regarding the soil condition. Mr. Fleming said that he would be meeting with Mr. Amorosa later this week and he would check in to the matter.

John Champagne asked about the Annual Inspection and Water Plant No. 3 Improvements, and whether Mr. Fleming saw any issues that would impede these taking place. Mr. Fleming said that he did not see any issues that would prevent them

from obtaining the inspection certificate. Mr. Fleming advised that the next step would be to obtain authorization from City Council.

- H. Financial Report – Mrs. Cathy Branco presented her report to City Council. Mrs. Branco said the first quarter budget is showing that the City is above board, which is good. Mayor Jones asked what that could be attributed to. Mrs. Branco said for the most part they are over on tap fees and late charges. Rebecca Huss said that last year they had to do an adjustment that knocked off \$60,000 off right from the start out of revenue.

Rebecca Huss said that it looked like the Utility Fund expenses for health insurance, employment insurance and all of that was zero, on page 34. Mrs. Branco said that she makes a quarterly adjustment from the operating fund to the utility fund.

Rebecca Huss asked about the fact that they were already \$6,000 over budget on trash collection, Item 26399 under contract service. Mr. Yates said that it should be a standard amount each month. Mr. Yates noted that there was an extra payment to them. Mrs. Branco said that there was an increase after the budget had been adopted. Rebecca Huss said that the contract amount was the same as the previous amount. Rebecca Huss said if it is over \$2,000 per month it will be a nasty surprise. Mayor Jones said that it was probably a timing issue. Mrs. Branco said that she would check into that information.

Mrs. Branco reviewed the account balances stating that the City had a total amount available in operating funds of \$972,000, capital projects at \$200,000 and debt service at \$183,000. Mrs. Branco advised that a debt service payment would be due on March 1 in the amount of \$400,000. Mrs. Branco said that if they did not receive enough taxes to bring them up to that amount, they have a provision that is already set aside in debt service, that they would transfer money from Montgomery EDC to cover the amount until such time that they have enough funds to cover the payment. Montgomery EDC account balance is \$613,000. Mrs. Branco advised that the total amount of funds available to the City is \$2,204,761.

Mrs. Branco advised that they were under the amount of sales tax that was expected because of an overpayment taken out for \$130,000. Mrs. Branco stated that they were also over on wages and repairs and maintenance on minor streets, which all attributed to the \$103,000 deficit income. Mrs. Branco said that pretty much everything else remained the same.

Mr. Yates advised that \$86,000 was the capital outlay that they spent, and they were shorted \$92,000 on the sales tax this month because of the overpayment by a tax filer. Mr. Yates advised that the State would pay that amount back to the City and then take it out of the sales tax over the next year or two to pay back the State Comptroller.

John Champagne asked what the total deficit was. Mrs. Branco advised it was \$103,000. John Champagne asked how long the State would allow them to make payments. Mr. Yates said it would be over a couple of years. Rebecca Huss said that the money really does not belong to the City, and gives the City the idea that they have the money, when they don't. Mrs. Branco said that during the month of January they \$236,764 collected, which is an unusual amount. Mrs. Branco advised that during the first quarter of the year the budgeted items are purchased and then as the year progresses the budget will level out.

John Champagne moved to accept the departmental reports as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding adopting the following Ordinance:

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS GRANTING A SPECIAL USE PERMIT TO TONY JACKSON FOR USE OF A PORTION OF PROPERTY LOCATED AT 22868 FM 1097, MONTGOMERY, TEXAS 77356, FOR SEASONAL FIREWOOD SALES; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

Mr. Yates advised that Mr. Jackson is selling firewood so he had Code Enforcement Officer Bauer go out and speak to Mr. Jackson. Mr. Yates stated that Mr. Jackson then sent a letter to the City applying for a Special Use Permit. Mr. Yates said that Mr. Jackson understands the

terms of the Special Use Permit and is willing to comply. Mr. Yates said that it looks like he can comply with everything except the insurance and the bond, which he will get after approval of the Special Use Permit. Mayor Jones asked whether this would be a new permit. Mr. Yates advised that as far as he knew that was correct. Mr. Foerster said that this would be a new permit.

Mayor Jones said that he would like to emphasize the part of the ordinance that talks about the ability for vehicles to get off of the right-of-way and not creating a disturbance, or being an eyesore. Mayor Jones said they need to keep it neat and clean and off of the road.

Mr. Jackson was present and said that he understood about the permit, but did not know about the bond and insurance information and where did it come from. Mayor Jones asked if Mr. Jackson had seen the ordinance. Mr. Jackson said that he had not seen the information.

John Champagne said that the question was about the insurance bond. Mr. Yates advised that he is required to provide a certificate of insurance for liability as Council has required in the past, which costs approximately \$550, depending on who you obtain it from. Mr. Yates advised Mr. Jackson that the insurance was to protect the people that would be shopping with him and pulling off to the side of the road.

Dave McCorquodale asked whether an antique shop in downtown be covered under the same type of insurance. Mr. Yates advised that they would not. Rebecca Huss said that they would have a premise insurance just like a homeowner that has insurance on the home. John Champagne asked whether homeowner's insurance would cover this permit. Mr. Yates advised that if the person was conducting business, the homeowner's policy probably would not cover it.

Mr. Foerster advised that he thought that there had been both a Planning and Zoning Commission review and a public hearing, and this was just a renewal of an ongoing special use permit. Mr. Foerster advised that the City Secretary advised him that the public hearing had not occurred. Dave McCorquodale said that this was one of the three special use permits that the previous City Administrator had reached out to but did not get any feedback from them so it did not go anywhere.

Mr. Foerster said that the special use permit set out in the zoning ordinance requires both the Planning and Zoning Commission and City Council to review it in a public hearing. Mr. Foerster said that if this is a new permit, then they would need both the Planning and Zoning Commission and City Council to conduct a public hearing for a special use permit, if this was a separate permit that was presented back in 2011. Mr. Yates said that it was a new permit.

Rebecca Huss said that in subsection 8, which discusses what Mr. LeFevre brought up last time about being engaged in the sale of firewood with one extra employee. Rebecca Huss said that she would like to see that language changed to be more specific and state that the person is being "paid for their services to engage in the sale of firewood" rather than somebody that happens to be there drinking coffee and lifts up wood to help his friend. Rebecca Huss said that the current wording could be used to hassle people unnecessarily because you have to prove whether they are engaged or being paid, so she felt that they should be specific about what engaged means. Mr. Foerster said that it would read "one additional paid person". Rebecca Huss said that would make her happy. John Champagne said that would make him happy also.

Mayor Jones said that based on what is happening now, they need to table this item and get Planning and Zoning Commission and City Council public hearings. Rebecca Huss said that they also need to talk to Mr. Jackson about the bonding, because it sounds like that could be a roadblock as well.

Mr. Foerster said that he thought that what City Council might want to do tonight would be to go ahead and call a public hearing on this matter for their next meeting, so he will have to check the zoning ordinance to see how much notice will be required. Mayor Jones stated that the Planning and Zoning Commission will not have had the opportunity to review the information before the next meeting unless they schedule a special meeting.

John Champagne said in the meantime they will be put on hold to do business and asked if that was correct. Mr. Yates said that he would say so. John Champagne said that he would opt for some allowances since we are the reason for the delay action on this item, and asked whether they could do some type of interim action. Mr. Foerster said that what they are asking for is a

variance to the ordinance, which City Council has the authority to do. John Champagne said that it could be Spring before this is done. Mr. Foerster said that it could be after firewood season. Rebecca Huss said that her only comment is that it is an unfair competition if you are requiring that everyone that has gotten a special use permit to hold insurance, and provide a variance where insurance could be the stumbling block and the applicant decides to go forward. Mayor Jones said that the unfair advantage is potentially caused by the City. Rebecca Huss said that the people that have jumped through the hoops already are the ones at a disadvantage.

John Champagne moved to grant an interim permit that is predicated on a bond and insurance policy being procured prior to implementation of this variance. Rebecca Huss seconded the motion.

Discussion: Dave McCorquodale asked whether they needed to call for tabling of this item and the scheduling of a public hearing at the earliest date. John Champagne said that he would agree. Mayor Jones asked whether this action would satisfy action on this item. Mr. Foerster advised that was correct, and he felt that it puts the public on notice of some action being taken by City Council. T.J. Wilkerson asked whether this would mean that he would still be able to sell wood. John Champagne said that was the whole point. Rebecca Huss said that he could as long as he gets his bond and insurance. Rebecca Huss said that it would be fair because everyone that sells firewood is required to have insurance.

The motion carried unanimously. (4-0)

4. Consideration and possible action regarding review of Special Use Permit for seasonal firewood sales to Roderick Lawson at 14611 Liberty Street, Montgomery, TX 77356.

Mr. Yates advised this is a question of a renewal based on the work of Officer Bauer who, as code enforcement officer, has been checking who has been living up to the terms of the special use permit. Mr. Lawson is not with the insurance and there might be a problem with people being able to pull off the road. Mr. Yates said that there was one other person that is not compliant, Mr. Butler, who Officer Bauer thought would have the insurance by the end of the week, which is the reason he was not on the agenda.

Mr. Yates said that Officer Bauer did not think that Mr. Lawson was doing as well on his compliance.

John Champagne said that he understood that if Mr. Lawson complies with the ordinance in total, he can be renewed. Mr. Yates said that was correct. Mr. Yates advised that Mr. Lawson is not compliant. John Champagne stated that then he can't get a special use permit.

Mayor Jones asked Mr. Lawson whether there was a status pending on meeting the requirements. Mr. Lawson said that he has been told by the officer that he has done an excellent job coming up to compliance, except for the insurance and bond. Mr. Lawson advised that he went to the insurance office this afternoon, and he will pay for the policy and have the policy effective tomorrow morning. Mr. Lawson said that he would turn in the policy to the officer tomorrow so that he can provide the information to City staff.

John Champagne moved that if Mr. Lawson is in compliance with the issues outstanding, inclusive of the insurance policy and bond, if he is in compliance, then he move that they approve the renewal of the special use permit, if not, it is rejected. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE ESTABLISHING A POLICY ON CARRYING FIREARMS IN THE MONTGOMERY CITY HALL; PROHIBITING CARRYING OF FIREARMS DURING CITY MUNICIPAL COURT PROCEEDINGS AND IN CITY OF MONTGOMERY MUNICIPAL COURT OFFICES; PROHIBITING OPEN CARRY OF HANDGUNS IN CITY COUNCIL CHAMBERS DURING GOVERNMENT MEETINGS SUBJECT TO THE TEXAS OPEN MEETINGS ACT; ORDERING THE POSTING OF NOTICES UNDER SECTIONS 30.06 AND 30.07 OF THE TEXAS PENAL CODE WHEN APPROPRIATE; PROVIDING EXCEPTIONS FOR PEACE OFFICERS, JUDICIAL OFFICERS AND OTHER PERSONS EXEMPTED BY LAW; PROVIDING PENALTIES; PROVIDING A REPEALING CLAUSE AND A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN

MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE OF THE ORDINANCE UPON PUBLICATION

Mr. Foerster advised that at the last meeting there was an extensive discussion on how they would proceed with the new open carry law that went into effect January 1, 2016. Mr. Foerster stated that effective January 1, 2016, people who have licenses to carry handguns may carry them openly with exception to certain exceptions, one being the court room and the offices utilized by the court. Mr. Foerster said that another is where there are governmental meetings that are subject to the Texas Open Meetings Act, if the City Council has passed an ordinance that prohibits either open carry or concealed carry or both.

Mr. Foerster said that based on the feedback at the last meeting, this ordinance identifies and directs the City Administrator to place a sign on the glass entrance door or next to the front door to put people on notice that there is a Municipal Court office inside the building. Mr. Foerster said that they were also going to prohibit anybody from carrying an open carry handguns in any governmental meeting, which would include City Council, Planning and Zoning Commission, Montgomery EDC and any meeting that would be subject to the Texas Open Meetings Act.

John Champagne asked whether the sign that would be placed on the door, will identify if a court proceeding is underway. Mr. Foerster said that the ordinance did not address that, but his suggestion was that the sign on the front door would say that the offices of the Municipal Court offices were inside the building. Mr. Foerster said that he would suggest a temporary sign to be placed out front when Municipal Court is in session.

Mr. Yates said that based on Mr. Foerster's comments they had planned to have two new signs on the front doors with one side saying "Municipal Court" with the hours and an arrow pointing to the left, the other side would say "City Hall Offices" with an arrow pointing to the right, then have a temporary sign to be put up when Court is in session.

Mr. Foerster said that he felt that it was prudent for people that are carrying a licensed weapon to know that they are coming into an area where a municipal court is located, because by law

and by their training they are supposed to know that. Mayor Jones commented that they can go and pay their ticket at the window, but they can't enter the municipal court offices.

Lt. Belmares said that the officers understand that people with a License To Carry might come in and pay a citation, with the controlled access to the inside offices, they do not have a problem with them having access to the hallway.

Rebecca Huss moved to adopt the ordinance as read by the Mayor. Dave McCorquodale seconded the motion.

Discussion: Dave McCorquodale said he had a minor point about the sign lettering that goes on the front door, and suggested all capital letters in San Serif font, because he wanted the door to look good. John Champagne said that he could see his point. Mr. Foerster said that they can leave that up to the City Administrator. John Champagne said that the front entrance is the entrance to this chamber. Mr. Foerster said that he took the front entrance to be the double glass doors at the front of City Hall.

The motion carried unanimously. (4-0)

6. Consideration and possible action regarding Waterside Estates, Section One, variance requests.

Mr. Fleming presented the information to City Council. Mr. Fleming said that this was a proposed single family development with 85 lots that would require four different variance requests since they did not comply with the City Code. Mr. Fleming advised that the information was presented to the Planning and Zoning Commission yesterday and had been approved. Mr. Fleming said that Mr. Mike Glezman, land surveyor, was present. Mr. Fleming reviewed the requested variances with City Council.

Mayor Jones asked Mr. Glezman why they made some of the lots angled instead of straight. Mr. Glezman advised that the developer wanted to slant them to the northeast to have a view down the canal toward the lake. Mayor Jones asked what the average size of the angled lots was. Mr. Glezman said that they were all over the minimum and 75' feet wide. Mayor Jones

said that if they straightened the lots they would still have the same number of lots. Mr. Glezman said that was correct.

Mayor Jones asked for the total acreage and lot number. Mr. Fleming advised that it is just over 60 acres with 85 lots, with two large commercial reserves and some other restricted green space reserves. Mr. Glezman said that the average lot size is 10,000 to 11,000 square feet.

Rebecca Huss said that she would not mind seeing resolution of the other issues with this developer before they move forward with any new developments. John Champagne asked what the issue would be. Rebecca Huss said that the issue of the pipeline under the bridge, which has been delayed, because they have meetings that the developers do not attend. John Champagne said that was a good point. Rebecca Huss said that she would rather not wait until they go out for bids and they decide who is selected, etc., it just needs to get it done.

Mayor Jones asked Rebecca Huss if she would postpone approval of this item pending resolution of the other issue. Rebecca Huss said that was correct.

John Champagne asked if there was a particular reason why the City would want perpendicular lots as opposed to the angled lots being presented. Dave McCorquodale said that when he hears the explanation of the view of the canal as the reason, it made perfect sense to him.

Rebecca Huss said that the City keeps postponing making a decision because there is something new coming up and discussions that never happen. Rebecca Huss said if they are bringing stuff up, there is still an issue of who is paying for the slope failure at the bridge, and who is accountable for the drawings being submitted that were not "as built". Rebecca Huss said that they have an opportunity to have assistance in getting that resolved as well. Rebecca Huss said that by saying "resolved" she did not mean that the City ends up paying everything out of pocket, it is more the responsible party taking responsibility. John Champagne asked whether there was an agreement as to who would cure the problem. Rebecca Huss said that she did not think that there was anything related to the slope failure.

John Champagne asked if they just had not been able to have the parties come together to resolve the matter. Mr. Yates advised that they had attempted to meet with Mr. Bowen several

times. John Champagne said that what he was asking to confirm that Mr. Bowen has not come to the City to resolve these issues. Mr. Yates said that was correct. Mayor Jones said that it will be resolved soon, maybe not in his favor. John Champagne said that Rebecca Huss wants to make this approval contingent upon the issues being resolved. Rebecca Huss said that they need to have a meeting that they attend so that they can make a final determination.

Mr. Foerster stated that what he is hearing from Council is that they are suggesting that they table action on this item.

Rebecca Huss moved to table this item pending resolution of the waterline. John Champagne seconded the motion.

Discussion: John Champagne said that they have been talking about the situation for over two years. Rebecca Huss said that she believed that was correct.

The motion carried unanimously. (4-0)

Mayor Jones asked City Council if they had any concerns about the variances that had been requested. There were no concerns expressed.

7. Consideration and possible action for authorization to proceed with Utility and Economic Feasibility for Waterside Estates, Section One.

Mr. Fleming said that the developer has submitted a request to receive water and sanitary sewer service from the City and with that he submitted his check to open an escrow account. Mr. Fleming stated that those actions initiated the process to begin the Economic and Feasibility Study with authorization from City Council.

Dave McCorquodale moved to authorize moving forward with the Utility and Economic Feasibility Study for Waterside Estates, Section One. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding approval of the Buffalo Springs Shopping Center, Phase II Final Plat.

Mr. Fleming presented the information to City Council. Mr. Fleming advised that the developer, had received approval by City Council in July 2015 so that Kroger could proceed with their work with one provision that they come to a resolution regarding naming of the future roadway. Mr. Fleming stated that Council Member Wilkerson had suggested naming the road "Gardner Drive" and the developers have agreed to that name, which is the only change to the plat.

Dave McCorquodale moved to approve the Buffalo Springs Shopping Center, Phase II Final Plat. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

9. Presentation of Sanitary Sewer System Analysis and Master Plan.

Mr. Fleming presented the completed Sanitary Sewer System Analysis and Master Plan. Mr. Fleming said that this was a sister document for the Water System Analysis and Master Plan that was delivered last month. Mr. Fleming stated that he looked at this as the third item in a series of four that they have been working on over the last several months to give them a good planning foothold. Mr. Fleming advised that the four items included: 1) Water and Sewer Rate Analysis, 2) Water System Analysis and Master Plan, 3) Sanitary Sewer System Analysis and Master Plan and 4) Thoroughfare Plan, which they are proceeding with. Mr. Fleming advised that this was a planning document that will continue to be altered and revised in the years moving forward and development continues. Mr. Fleming advised that information was largely provided by the City's utility operator, with population and growth predictions from Texas Water Development Board. Mr. Fleming then reviewed the information with City Council.

Mr. Fleming said that the underlying message as the system stands right now, has the ability to treat all of the flow that is generated in the City. Mr. Fleming said that they have identified several facilities both lift stations and gravity lines that are currently operating very near/at or even above their design capacities. Mr. Fleming advised that while the city is able to treat all

of the flow that is generated now, it is something that they need to watch very closely in the coming months and years to make sure that they stay ahead of the curve.

Rebecca Huss asked about the statement on page 12 that said they could not create a model because they do not have enough consistent data points, and how confident was Mr. Fleming that everything is right if they don't have enough data points to create a model. Mr. Fleming stated that they have flow data, so typically, and the way that it was written in the operator's previous contract, they had to visit every lift station at a minimum of every 3 days, and the sanitary sewer treatment plant 5 days per week. Mr. Fleming said that with that schedule, they have some gaps in the data.

Mr. Fleming said that one of the things that they identified, which they were already aware of, was infiltration and inflow, which they call "I & I". This occurs during rain events where storm water makes its way into the system, and unauthorized downspouts going into the system. Mr. Fleming said that he sees a massive problem with I & I. Mayor Jones said that in previous years they had done studies and determined in the older part of town there is probably a lot of pipes that are failing, which is where a lot of the inflow is coming from. Rebecca Huss asked if they could use hourly, 30-second and 15-second water meter data on a map of the City and then the volume from the pump data to figure out where you are specifically having the I&I or at least an area of the City that they are having issues. Mr. Fleming said that they could not do that, because one of the complicating factors here would be is the degree which the lift stations are connected and not isolated.

Mr. Fleming said that they have identified a list of capital projects in the Report, and they have tried to prioritize as best as they could as they see things today, along with their recommendations. Mr. Fleming advised that he has spoken with Mr. Muckleroy about beginning some sporadic smoke testing throughout the City, which will be a good first step.

Rebecca Huss asked if Mr. Fleming had an idea what the really big rain events cost the City. Mr. Fleming said that he thought it would be really easy to identify and work out a cost on how much it would be to treat the water on a per gallon basis.

Mr. Shackleford said that in the Water Sewer Rate Analysis they have identified the cost to collect and treat the sewage per thousand gallons. Mayor Jones asked if the rain events caused the City to have a higher peak expectation for future planning than they should have, where it happens and it is gone. Mayor Jones asked if they had to account for the rain events in capacity. Mr. Shackleford said yes and no, the yes answer is because as you are reporting on a monthly basis to the State what your minimum and maximum numbers are the rainfall numbers are there and included. Mayor Jones said that infiltration has a cost in treatment and planning. John Champagne said that it also included infrastructure.

Rebecca Huss said that if you take May and June and assume 200,000 extra gallons it would cost the City an extra \$54,000. John Champagne said that it would be a whole lot cheaper to find the leaks and infiltration, than to have capital expenditures to raise the capacity.

Mr. Shackleford said that the camera and cleaning cost about \$2.50 to \$3.50 per linear foot. Mr. Shackleford said that the City has approximately 95,000 linear feet of gravity sewer that you would investigate. Mayor Jones stated that there was some clay pipe still in the old part of town. Mr. Shackleford said that there is probably still some concrete pipe. Mayor Jones said that he was sure that infrastructure was past its 20 to 30 year warranty period. Mr. Shackleford said that there were solutions that would prevent them from having to dig up pipe, such as sleeving the pipe. Mr. Shackleford said that the Report also talks about some lines having to be upsized because of capacity or lack of capacity in the current pipe, or anticipated development.

Mr. Shackleford said that they were going to recommend getting together with City Council in a Workshop Session to bring all of the information back together and go over some of the details and try to formulate a plan.

Mr. Fleming said that this Report refers to three different options. Mr. Fleming said that have to look at whether they continue to operate one treatment plant, or does it make sense for the City to bring the Town Creek site back on line. Rebecca Huss asked if that would be just the site, not necessarily the plant itself. Mr. Fleming said that was correct. Mr. Fleming said that the biggest question is whether it makes sense operationally and financially for the City to continue operating just one facility or two. Mr. Fleming said if they rule out operating two

facilities, they would need to determine what they would do with the Stewart Creek site, which is the operational facility right now to get it up to par. Mr. Fleming said they would need to determine if they want to expand what is there at the plant, or go in with all new construction. Mr. Fleming said if they decide to operate two plants instead of one, they will need to determine what that does to allow them to begin eliminating lift stations.

Mayor Jones said that because we are a small town, and then they expand piece meal and they build in deficiencies because they have to. Mr. Fleming said that might have been the case in the past, but they are eliminating that process for the future. Mayor Jones said that it does help knowing the future development, where in the past they had no idea when it would occur.

Rebecca Huss asked if they could take out the sentence that said “essentially everything that we operate in the sanitary sewer system needs upgrading and is a safety hazard”, which she remembered reading in one of the drafts. Mr. Shackelford said that they might have taken that out already. Rebecca Huss said that there is a safety hazard involved with almost every piece of equipment in the system. Mr. Fleming said that some are more so than others. Rebecca Huss said that safety needs to be factored in and they need to spend the money on safety.

Mr. Fleming asked that City Council take the document and review the information, and let him know if they have any questions.

#### 10. Presentation and Adoption of City Zoning Map.

Mr. Fleming stated that per the City Code, there is supposed to be a current Zoning Map on file in the City Secretary’s office. Mr. Fleming advised that he and the City Secretary noticed that the map was not up to date, so they worked on it together over the last month to get it updated. Mr. Fleming stated that this was an accurate and current depiction of the City limits, ETJ and zoning classifications. Mr. Fleming said that he wanted to get as much information on the map as possible, so the different development districts and agreements have been included on the map. Mr. Fleming said that he fully expected that they will continue to find other little additions, errors or omissions, so he anticipates bringing the map to Council every

so often for Council to readopt the revised version. Mr. Fleming said that he welcomed any comments and/or suggestions.

Dave McCorquodale asked about the areas in the flood plain and whether they reverted to the surrounding areas. Mr. Fleming said that if the property is within the 100-year flood plain, the property is technically not developable land as it stands right now, which is why there is no zoning classification assigned to the land. Mr. Fleming said that there are methods to have that flood plain revised and redrawn so that they land could be developable.

Dave McCorquodale said that there was a piece of property that is shown industrial that is in the bottom left hand side, in the southwest portion, where one falls on the railroad track, but there is one at the tip of the purple area that is a house. Mr. Fleming said that he fully expects to bring this map back to Council on a regular basis, because some of this data was inherited, some scrounged together and other that is 10-15 years old. Mr. Fleming said that there are areas that make perfect sense, and then there are other areas that don't necessarily add up.

Dave McCorquodale asked what the reasoning was for the multi-family zoning. Mr. Fleming said that he did not have a good reason for that zoning, he is sure that there had to be a reason for it. Mr. Fleming said that the way the ordinance is written right now, it allows for cumulative zoning, which means if you have an area zoned single family you can't build commercial, but if you have commercial you can build a less restrictive area. Rebecca Huss said that she thought that they had fixed that provision. Mayor Jones said that you can go single family, but you can't automatically go multi-family anymore. Dave McCorquodale said that he was talking about the south side of SH 105, where it shows intermittently multi-family and commercial.

Mayor Jones said that City Council has the ability to rezone. Mayor Jones suggested that someone take the map and show the areas where there is no reason why they are zoned what they are, make a list and then run it by the Planning and Zoning Commission. Then bring the map back to City Council and clean the map up. Mr. Fleming said if that is something that Council would like him to look into, he would be glad to identify some areas on the map and make that suggestion. Mayor Jones said that he knew that they would have to have public hearings and the property owners would have a say in the matter, but they need to clean the

map up. Mayor Jones said that most of the problem is in the outskirts of the City where there is nothing going on. Mr. Fleming said that he will certainly work on the map.

Dave McCorquodale moved to adopt the City Zoning Map as presented. John Champagne seconded the motion.

Discussion: Dave McCorquodale said that if they need another voice in reviewing the map, he has a planning degree just gathering dust. Mr. Fleming said that he would send a copy of the map via email.

The motion carried unanimously. (4-0)

11. Consideration and possible action regarding approval of construction drawings for Lake Creek Village, Section Two.

Mr. Fleming presented the information to Council advising that this is Mr. LeFevre's development, and they are requesting to approve the construction drawing, which they have no objections.

John Champagne moved to approve the construction drawings for Lake Creek Village, Section Two. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

**EXECUTIVE SESSION:**

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

**COUNCIL INQUIRY:**

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

Rebecca Huss stated that there were several items that have remained outstanding and she wanted to propose them for discussion during some Workshop Sessions, as follows:

- Animal Ordinance;
- Antique Festival issues;
- The role of the new HMBA, including financing and duties;
- Jones & Carter Design Criteria Manual changes;
- Water and Sewer Rate changes, losses and depreciation and pending expenses;
- Make progress on writing and implementing an ordinance or necessary action in order to have connection charges to reflect the cost of connection to the City;
- Repairs to the bridge slope failure and where they are going from here; and
- Grants.

Mr. Foerster said that Juanita Stanley was the grant writer for Montgomery College, and she retired and is now teaching grant writing at Lone Star College. Mr. Foerster said that he thought that she would probably do some consulting work.

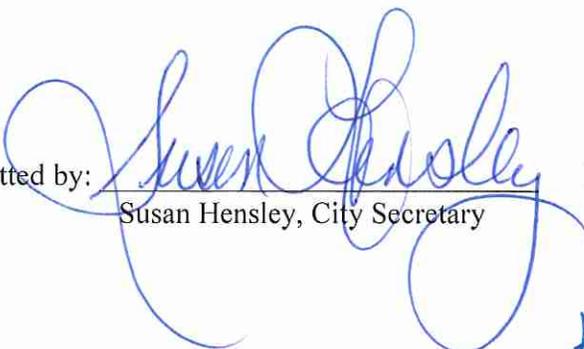
Rebecca Huss said that they have a lot of things on their plate right now and somehow things keep getting added and they are not moving anything off of the backend, so they need to figure out how to move that forward.

John Champagne asked if Rebecca Huss was requesting a Workshop Meeting. Rebecca Huss said one or two Workshop Meetings. Mr. Yates asked if they would want to schedule a Workshop Meeting once a month for the next three months. Rebecca Huss said she thought that would be a great idea, and said if there was a need for any administrative help, she had time to provide back up on that.

Mr. Yates said he would work on a schedule for Workshop Sessions and will follow up with an email to City Council.

## **ADJOURNMENT**

John Champagne moved to adjourn the meeting at 8:15 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Submitted by:   
Susan Hensley, City Secretary

Date Approved: 02/09/2016



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Mayor Kirk Jones

