

MINUTES OF SPECIAL MEETING

June 7, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:01 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Dave McCorquodale City Council Place # 5

Absent: John Champagne, Jr. City Council Place # 2

Also Present: Jack Yates City Administrator
Susan Hensley City Secretary
Chris Roznovsky -City Engineer

CONSIDERATION AND POSSIBLE ACTION:

1. Consideration and possible action regarding scheduling a Public Hearing regarding a request to rezone a 5-acre tract of land located at 2500 Lone Star Parkway, Montgomery, from I-Industrial Use to R2-Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development to be held at the City of Montgomery City Hall on June 26, 2018 at 6 p.m.

Mr. Yates advised the actual address of the property is 2512 Lone Star Parkway, Montgomery. Rebecca Huss stated that 2500 was the Community Center. Mr. Yates said the way that they will describe it is being located at 2512 Lone Star Parkway and in parenthesis (north/west of 2500 Lone Star Parkway), because 2500 is the Lone Star Community Center. Mayor Countryman thanked Mr. Yates for the clarification.

Rebecca Huss advised there was someone that wanted to address City Council.

Mr. Jacobs said he thought that 2512 was the address Independence Place. Mr. Yates advised Mr. Jacobs that they did not have any address at this time, which is the reason he had added north/west of 2500 Lone Star Parkway. Mr. Yates said the notifications would go out to the exact people that are within 200 feet of the property.

Rebecca Huss asked what would happen with the existing multi-family residences, does the owner of that property that gets notified or the individual residents within that location. Mr. Yates said that it would depend on how it is shown on the property tax rolls. Rebecca Huss said that given how it would impact the people living on that property and asked if it would make sense for the City to also post a notice at that location. Mr. Yates said they could do that by posting a sign on the property. Rebecca Huss said that would show that they are being good stewards of their concern. Mr. Yates said they had also received a letter of support from the property manager at that location. Rebecca Huss said that was good to know. Mr. Yates said they will put a sign up at that location.

Dave McCorquodale moved to schedule a Public Hearing regarding the rezone of the said tract for June 26, 2018 at Montgomery City Hall at 6 p.m. Rebecca Huss seconded the motion.

Discussion: Mayor Countryman allowed Mr. Nathan Kelly to address City Council. Mr. Nathan Kelly introduced himself as the Vice President of Blazer, owner and operator of the Heritage Apartments located at 325 Flagship Boulevard. Mr. Kelly advised they have an application with the Department of Housing and Community Affairs, the State Housing Agency, for an award of housing tax credits for their second phase development, Heritage Seniors, which City Council supported by Resolution on January 23, 2018 under Resolution No. 2018-03.

Mr. Kelly advised that Heritage Seniors is an 80-unit senior apartment community already zoned R2 Multi-Family. Mr. Kelly said currently there are only two applications eligible for award in rural region six, and at this time only one will be funded and move forward this year, which are their 80-unit mix income Heritage Seniors application and the 32-unit Star of Texas Seniors application. Mr. Kelly said the City has called this Special Meeting to schedule a

Public Hearing regarding Star of Texas Seniors because Mr. Larry Jacobs has requested to rezone his site from I-Industrial to R2 –Multi-Family.

Mr. Kelly said that he felt that at this point it was premature to schedule a public hearing before the City Council for June 26, 2018. Mr. Kelly stated that Section 98-30 of the City of Montgomery Code of Ordinances provides that the Planning and Zoning Commission shall make a preliminary report, hold public hearings on that report before submitting a final report to City Council. Mr. Kelly stated that City Council may not hold a public hearing until they receive the final report from the Planning and Zoning Commission, and the City Council cannot take action on the matter until it receives the final report of the Planning and Zoning Commission. Mr. Kelly said that based on this language it is his interpretation that City Council may not take action on this matter, including scheduling a public hearing until the Planning and Zoning Commission has held its own public hearings and finalized their report. Mr. Kelly said that it is currently contemplated that the Planning and Zoning Commission will prepare their preliminary report and hold two back to back public hearings on the report at their June 25, 2018 Meeting. Mr. Kelly said scheduling the public hearing before City Council meets on June 26, 2018 assumes there will be no questions or concerns raised by the Commission members or community at the June 25, 2018 meeting, or that the City will be able to adequately address those issue during the meeting for a final report to be delivered to City Council the following evening.

Mr. Kelly said considering the request is to rezone an Industrial site to Multi-Family, the Planning and Zoning Commission members or the community should have adequate time to diligently review the impacts of the rezoning. Mr. Kelly said Section 211-004 of the Local Government Code requires that zoning regulations be designed to satisfy a number of criteria related to traffic, public safety, health and general welfare and the provision of public requirements, among the number of other things. Mr. Kelly said taking those one at a time, he proposed the following:

- Traffic – the apartments at Lone Star Parkway are likely to cause more traffic than industrial use would and the Parkway has a relatively high speed limit of 45 mph. Mr. Kelly said he wanted to know if a traffic study had been conducted to determine if a signal was going to be warranted or if a left turn lane was going to be installed.

- Public Safety – Mr. Kelly said the tract that is in question is at the dead end of a long waterline and asked if that system has been tested to determine if there is going to be adequate fire water volume and pressure available to serve the apartments or will additional water system improvements be required.
- Health and General Welfare – Mr. Kelly said this is a high density residential use adjacent to an industrial use and asked if that was conducive to promote health and general welfare and when the industrial use does get developed will there be backlash from the residents in the apartments at that point. Mr. Kelly said it has been mentioned that there are apartments adjacent to this site already and he would like to clarify that the 14-unit Independence Place Community is a permanent support housing property for persons with disabilities and not conventional apartments.
- Public Services – Mr. Kelly advised there is no gravity sewer available at the location and Lone Star Parkway, as he understands it, is served by multiple lift stations. Mr. Kelly said another question to be asked is whether or not a provision for sewer service would be handled if power is interrupted. Mr. Kelly asked what services are available to seniors in the immediate area such as parks, stores, walking paths because to his knowledge there is only the Lone Star Community Center.

Mr. Kelly said the rezoning process is meant to be a public process with notice to the landowners and to provide sufficient time and notice for the public to consider the impact surrounding the properties. Mr. Kelly said that for their property, Heritage Apartments, the rezoning process from Commercial to R2 Multi-Family took roughly 90-days to complete and in most instances based on the research he has done, the City of Montgomery handles these requests within a 75-90 day window. Mr. Kelly said it is his opinion that rushing this rezoning request through in half the time serves the interest of a single developer and land owner rather than the residents of the community. Mr. Kelly requested that City Council stay consistent with the established practice and allow the Planning and Zoning Commission time to diligently review the impacts of the requested change and its communities concerns and issue a final report to City Council before City Council schedules its public hearing. Mr. Kelly thanked City Council for the opportunity to present his comments this evening.

Mr. Yates stated that the City Attorney in the past has allowed and thought it proper for the City Council to hold their public hearing and stated that the first item on the City Council Agenda was to receive the Final Report from the Planning and Zoning Commission. Mr. Yates said the City Attorney has stated that has been a proper method. Mr. Yates said he would pass along that information to Mr. Foerster. Mr. Yates said if Mr. Kelly would like to write the City a letter summarizing everything he has stated, that would be good and then he will pass it along to the City Attorney. Mr. Yates said that he feels like, based on past action, that City Council is all right to call a public hearing tonight.

Rebecca Huss said she also felt like where they are now is in part because of at the last meeting they were looking at a Special Use Permit, which they were more or less not objecting to until the Blazer representative brought it up and it was said that City staff had encouraged or brought the Texas Star Senior people down the path of the Special Use Permit, so in some ways where they are now is really an attempt to make amends for bad advice. Rebecca Huss said if they had started this process from the beginning as a rezoning they would have had the typical time that Mr. Kelly had discussed, so this is really government trying not to stand in the way of business because they prefer to do it the best way. Rebecca Huss said that while she agreed that they should not rush into decisions, this is not necessarily a rush but an attempt to make an amends for something that they wish that they had started out differently, which would have gotten the preferred timeline that Mr. Kelly stated. Rebecca Huss said that all the other questions that Mr. Kelly stated were spot on and need answers, but she did not necessarily think that means they can't hold public hearings and make decisions. Mr. Kelly stated he understood. Mayor Countryman thanked Mr. Kelly for his comments. Rebecca Huss asked Mr. Kelly to raise the issues again later because they are worthwhile, especially the quality of life, public safety, water and sewer pressure are all great questions.

Jon Bickford asked if the Planning and Zoning Commission have their June 25, 2018 meeting scheduled already. Mr. Yates said yes their meeting is scheduled. Jon Bickford asked Mr. Yates if the protocol has been that they get that report by the second meeting, but in this case they will get the information by the second meeting. Mr. Yates said that was correct and they would also have another meeting on July 10, 2018. Rebecca Huss said she wanted to note that the Planning and Zoning Commission are no pushovers they are very diligent and thoughtful in the way that review the information, so they will give good advice and a good review.

T.J. Wilkerson asked if this would be single family homes or are they going to be apartments. Mr. Yates said that they are going to be four-plexes that are four apartments with a joint wall, with eight four cluster buildings. Rebecca Huss asked if these applicants proceeding without the City making a preference between them, they are just proceeding on and asked if the City has any other say in the matter. Mr. Yates said no, it is only the State. Rebecca Huss said that if you think about what type of infrastructure that they might have to roll out or you are looking at the value of a 32-unit apartment complex versus an 80-unit apartment complex and said that for the City they might prefer one that has higher taxable land value. Mr. Yates said that was for the City Council to consider and said that unless City Council were to do something with the zoning, as he understands it, the Star of Texas Seniors is first on the list. Mr. Yates said that the City has nothing to do with the list other than the Resolution that City Council passed for both groups the same night.

Mr. Kelly said that he could clarify one item, stating the Texas Department of Housing and Community Affairs is a State agency that governs the program requires that the applicants have an appropriate zoning in place prior to an award of tax credits, so without the evidence of zoning the applicant that is currently one point ahead of their application would not be awarded those credits without the zoning in hand. Rebecca Huss asked why Mr. Kelly was one point behind. Mr. Kelly said that they are one point behind because they are in a census tract that has existing housing tax credits units for their first phase and they are in a census tract that has no existing housing tax credit units.

Mayor Countryman called for a vote on the motion scheduling a Public Hearing regarding a request to rezone a 5-acre tract of land located in and around 2512 Lone Star Parkway, Montgomery, from I-Industrial Use to R2–Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development.

The motion carried unanimously. (3-0)

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

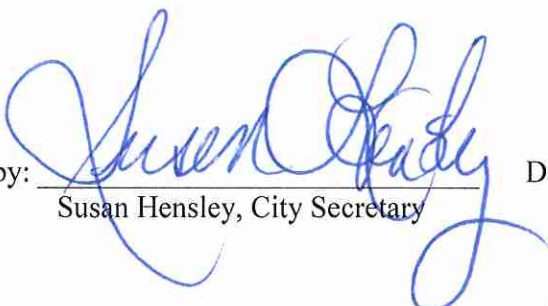
property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas. (There are no items at this time.)

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.

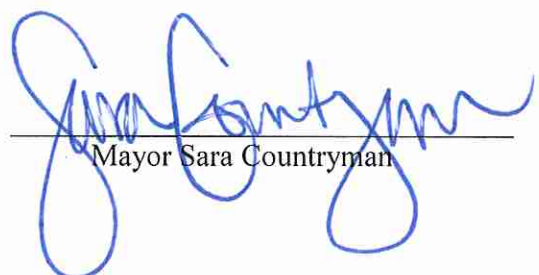
ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 6:17 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by: 
Susan Hensley, City Secretary

Date Approved: 06/26/18




Mayor Sara Countryman