

## MINUTES OF REGULAR MEETING

June 25, 2019

### MONTGOMERY CITY COUNCIL

#### CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:03 p.m.

Present: Sara Countryman Mayor  
John Champagne, Jr. City Council Place # 2  
Rebecca Huss City Council Place # 4  
Tom Cronin City Council Place # 5

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

#### Also Present:

Richard Tramm City Administrator  
Jack Yates Consulting Administrator  
Susan Hensley City Secretary  
Chris Roznovsky City Engineer

#### INVOCATION

John Champagne gave the Invocation.

#### 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.

Mr. Ismael Herrera, with Blue Wave Car Wash advised he was present for the placement of the monument sign that is on the agenda tonight. John Champagne asked about the monument sign and what was involved.

Mr. Herrera advised it was regarding the setback so the sign would be in line with the other signs in the neighboring area. Mr. Herrera said he would wait until the agenda item to make his comments.

Mr. Jim Plunk, representing Troop 491, addressed City Council stating he was here as part of his Communication Merit Badge and requested a photo with City Council. Rebecca Huss asked how long Mr. Plunk has been in Boy Scouts. Mr. Plunk said it has been about 3-4 years. Rebecca Huss said her son was an Arrow of Light in Cub Scouts. Mr. Plunk said he felt he would really like Boy Scouts because it is a lot more fun and more instructional and things are done as a Troop. Rebecca Huss asked if the older Scouts show the younger Scouts how to do all the things and they are not just left on their own to figure things out. Mr. Plunk said the older Scouts teach them and the adults help too. Rebecca Huss asked if most Scouts that transition to Boy Scouts stay in Boy Scouts. Mr. Plunk said it was not as many as they would like because they don't want to put forth the effort or some of them are in sports and it takes up too much time. Rebecca Huss asked if Mr. Plunk had figured out his Eagle Scout project yet. Mr. Plunk said not yet. Rebecca Huss said she hoped he was going to do something in Montgomery because they have had a lot of great projects at Memory Park and Fernland. John Champagne asked Mr. Plunk to come back and they can brainstorm. Rebecca Huss said if Mr. Plunk was interested in doing something with the City, to come back and maybe work with the Public Works Director and the City Administrator to come up with a project that will last a long time. Rebecca Huss advised she has not selected a Troop for her son, but last year all the Arrow of Lights, except for the female, went to Troop 491 and the female went to the girl Troop 79 in Willis. Mr. Plunk advised that two of their instructors are with NRA, so they have someone that is qualified out there. Rebecca Huss said having the children learn respect, skills, and handling of weapons is the way to go. Rebecca Huss said having fun is the way to keep boys involved in Scouts.

#### **CONSENT AGENDA:**

1. Matters related to the approval of minutes of the Regular Meeting held on June 11, 2019.
2. Consideration and possible action regarding adoption of a Resolution regarding City of Montgomery Banking authorized signors with First Financial Bank, N.A.
3. Consideration and possible action regarding declaring City utility accounts over four months in arrears as uncollectable for accounting purposes while retaining the City's authority to collect on amounts due.

Rebecca Huss stated she had a question regarding item 3, stating she thought the City had changed our policy towards extending credit in general on these accounts, but 2018 and 2017 have large

arrears. Rebecca Huss said she thought the problem was all prior to 2015, but this clearly is not the case. Rebecca Huss said before they write this off, which she does not have an issue doing if it is uncollectable, she would like to know if they are going to make a change that prevents this from happening again because she thought they had already done that and it is clear they have not.

Mr. Tramm said he could not speak to those amounts, but he does know the office has no intention of letting that get out of control in the future. Mr. Tramm said he would be glad to look at that information individually and report back to City Council. Rebecca Huss said she definitely would like that. Rebecca Huss advised Mr. Randy Burleigh has had some thoughts on that in terms of some of the things that Incode has done when accounts have been shut off and then turned back on and they have not recollected a deposit when their deposits had been refunded to them, which is not helpful. Rebecca Huss said there are some accounts that have higher usage and their deposits are clearly not enough to cover arrears of one month, let alone multiple months that were allowed. Rebecca Huss said there are a lot of things they should consider but writing it off every year is not going to do the taxpayers or water usage payers any good if we do not make changes in our behavior that led to this problem.

John Champagne said he would ask that Mr. Tramm review the current policy and if the policy does not address the situation we are dealing with tonight, four months in arrear, that we modify the policy, so this does not happen again. Mr. Tramm said he would do that.

John Champagne moved to accept the Consent Agenda as presented. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

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

4. Consideration and possible action regarding Spirit of Texas Bank “Welcome to Montgomery” landscape feature to be located northwest corner of State Highway 105 and Lone Star Parkway.

Mr. Michael Durham, General Counsel for Spirit of Texas Bank with Ms. Hope Robinson, distributed a handout and photos they are asking City Council to consider as the “Welcome to Montgomery” monument to the City of Montgomery. Mr. Durham said the statue that is depicted is of Mr. Samuel McCullough and he provided some history of Mr. McCullough. Mr. Durham advised that Mr. McCullough was the first individual wounded in the Texas Revolution. Mr. Durham stated they are depicting Mr. McCullough on horseback, stating that he was wounded going into the officer’s garrison at the Battle of Goliad and is historically known as the first person

wounded on the Texas side. Mr. Durham said Mr. McCullough was a free black man when he moved to Texas and as such, they would like to honor him with a statue. Mr. Durham said around the statue and in front of it will be a wall with "Montgomery, Texas, 1837, and Birthplace of the Texas Flag 1839." Mr. Durham said they also plan on having two cannons on either side of the statue, which will be like the cannons they have at the location in Conroe. Mr. Durham said they plan on having six Texas flags behind that in varying heights. Mr. Durham said they also want a large Texas flag which they have proposed along with Milestone, who was the developer of the Kroger property, and they have agreed to place the Texas flag there. Mr. Durham said he has spoken with Mr. Tramm and they need to have approval by the Board of Adjustment for the height of the flag so at this time, it is a proposal for a 130-foot-high flag. Mr. Durham said this will be a very nice introduction to the City of Montgomery. Mayor Countryman asked how large the flag will be for that size flagpole. Mr. Durham said it would be 30 x 60.

Rebecca Huss asked if Mr. Durham would have a plaque explaining Mr. McCullough's history. Mr. Durham said they would have that information there. Rebecca Huss said she can't imagine that Mr. McCullough is very well-known figure, but a very interesting figure. Mr. Durham advised they would have a plaque on the statue that will explain the history of Mr. McCullough.

John Champagne asked if Mr. McCullough was killed in battle. Mr. Durham said no, he was wounded and survived and if you look up his history, he was a very interesting gentleman. Mr. Durham said there is an Act around 1840 called the Ashworth Act where Mr. McCullough was instrumental in getting Texas to pass a law that allowed any free black man to own property, and because of his willingness to fight for the State of Texas, he was given some land in this State. John Champagne said before he left Louisiana, in New Orleans it was filled with these types of monuments before they took them down. John Champagne said he could be wrong, but it was his understanding with statues, when both legs of the horse are up in the air, that person died in battle, so they might want to check that out. Mr. Durham said he would ask about that information.

Mr. Durham said a couple of years ago, they had agreed to take over the Development Agreement with Milestone and agreed to put something together to make a Welcome into the City. Rebecca Huss said there is an Assignment of the Responsibility from Milestone to Spirit of Texas Bank that they agreed to in March or April two years ago.

John Champagne said for the record, he thinks the building and the whole thing is just outstanding. Mayor Countryman said they have done a beautiful job. Mr. Durham said thank you and stated

they try not to do anything second rate. Mr. Durham said they would welcome everyone to come inside and see because there are other things inside that are amazing. Rebecca Huss asked when the Grand Opening would occur. Mr. Durham said the Grand Opening they are hoping to hold off until the City grants permission to build the Welcome to Montgomery and large flag, then once that is done, they would like to have the whole picture complete before they have the actual Grand Opening. Mr. Durham said they are looking at, depending on the Board of Adjustment, probably the first part of August. Mr. Durham said they would have a soft opening probably this Friday or next Monday. Rebecca Huss said the last she heard the Board of Adjustment would be held on either July 5<sup>th</sup> or 8<sup>th</sup>. Mr. Tramm said they are probably looking at July 8<sup>th</sup> which they will confirm tomorrow and advised he would call Mr. Durham to confirm that date.

Mr. Foerster said he agreed this is a very impressive design and asked who would be maintaining and replacing the flags. Mr. Durham said that would be their job and is written in the Agreement. Mayor Countryman asked if they would be purchasing the flags from City Hall. Mr. Durham said, without revealing certain confidences, they did purchase a few from the City a month ago.

Tom Cronin said with Montgomery being the home of the Texas flag, the Lone Star Flag, this is a phenomenal impressive first impression when people come into the City. Tom Cronin said the bank is beautiful and the most impressive building in the entire City. Tom Cronin said he wanted to applaud and thank them for thinking about the City of Montgomery.

Tom Cronin moved to accept the landscape features Mr. Durham has presented for the Spirit of Texas Bank on the northwest corner of SH 105 and Lone Star Parkway. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said just to be clear, this meets and exceeds the assignment from Milestone as was their requirement of the 380 Agreement that Milestone signed with the City. Mr. Durham said that was correct.

Mr. Yates said even though the Board of Adjustment approves the height of the flagpole, he thought it might be something City Council would want to include in their approval. Mayor Countryman asked if Mr. Yates was saying that the 130-foot flagpole be included in this approval. Mr. Yates said he would think so. Tom Cronin said he would accept that as an amendment to the Motion. Rebecca Huss said she would second the Amended Motion, but just to be clear, it is solely the

jurisdiction of the Board of Adjustment, which is not the purview of the City Council. Mr. Yates said that was correct.

Mayor Countryman said they would approve the Motion first and then discuss the amendment.

The Motion to accept the Spirit of Texas flag landscape feature to be placed on the northwest corner of SH 105 and Lone Star Parkway carried unanimously. (3-0)

Mr. Durham said the flag will be the property of Milestone and will be on the land behind the Bank. Rebecca Huss said if that is the case, then she did not feel this should be part of this at all.

Tom Cronin withdrew his amendment since it is Milestone and not the Spirit of Texas Bank. Mr. Durham said the flagpole will be on Milestone's property and said the original Agreement the City had with Milestone was they would provide up to \$50,000, so this is part of that. Mr. Durham said when they took over that Assignment, they made Milestone commit they would continue that obligation, and this is part of that obligation. Rebecca Huss said the flag is part of that obligation, not the monument. Mr. Durham said anything in front and what they are doing, and the flagpole and flag is Milestone. Mr. Foerster said for clarification, about the flag, who will be maintaining and replacing that flag. Mr. Durham said that would be Milestone. Mr. Foerster said if they assign the property to someone else, that assign will include that information.

Rebecca Huss stated that Tom Cronin has withdrawn his motion and she is withdrawing her second. The motion has been removed.

5. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Tramm presented his report to City Council. Mr. Tramm advised he began his employment with the City on June 10<sup>th</sup> and said he looks forward to the opportunity. Mr. Tramm introduced himself stating he was hired as the City Administrator to replace Mr. Jack Yates and said he looked forward to meeting everyone. Mr. Tramm advised he was working to get himself up to speed with the help of the consultants and City staff. Mr. Tramm reported he felt the City has a really good staff in place, which is a testament to Mr. Yates and the leadership he has provided over the years. Mr. Tramm said he has come into places before where he had to completely reshape an office and he does not have to do that here and he looks forward to working with the staff. Mr. Tramm said he has been touring the City Parks and meeting people around the

community. Mr. Tramm advised over the next month he wants to be able to meet the business community as well as the residential community. Mr. Tramm stated he looked forward to the future in the City and said it is an exciting time for him to be here. Mr. Tramm said next month he expected he would have more details to report.

Rebecca Huss stated that Mr. Yates included some comments about the budget adjustments, and she had a couple of questions regarding those items in the General Fund summary. Rebecca Huss said Mr. Yates made adjustments to all of the line items and some of them quite small, but the legal budget, which is \$23,000 for October to April, so for seven months \$3,143 per month gives them \$38,000 per year that is \$11,000 to \$12,000 over and that is not adjusted. Rebecca Huss said she was wondering how they are under budget in Police cars and equipping them because we have had two fleet accidents and now three. Rebecca Huss said she thought they had budgeted for purchasing vehicles. Rebecca Huss said being under budget while purchasing vehicles does not seem to be possible. John Champagne asked Rebecca Huss when she is saying under budget, was she referring to revenue. Rebecca Huss said no, she was talking about the expense item. John Champagne asked why there was a problem if they are under budget. Rebecca Huss said because they are spending money, so if they are generating lower than expected expenses by not spending money, but you know you are spending money, so that can't generate lower than expected expenses. Rebecca Huss said she was questioning how they are generating savings when they know they are spending the money. Mr. Yates said as the Chief explained last meeting, the detailing and lettering of the vehicles is included in the purchase price of the new vehicles, and it was two different items in the budget. Rebecca Huss asked if they were saving \$33,000 this year because that is the amount of money Mr. Yates is saying he is freeing up from the budget figures. Mr. Tramm said he also did not believe they have written a check for those cars that are going to be replaced. Rebecca Huss said that is fine, but this is the expectation for the end of the year.

Rebecca Huss said she would also like to know why on the tax rebate line items, the ad valorem tax rebate expectation is zero because the sales tax rebate is a positive number, therefore our property tax rebate number should be a positive number. Rebecca Huss said those questions can be answered later, but these are questions that need to be answered because you are generating over a \$100,000 in savings by not doing these numbers correctly, which is a big difference. Mr. Tramm said he would review that information and get back to Rebecca Huss with the results.

- B. Public Works Report - Mr. Mike Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy said they had repaired a leaking service line at 706 Caroline, activated and deactivated 15 water accounts, completed eight work orders for leaks and eight work orders for water taps. Mr. Muckleroy said they located a sewer tap on Community Center Drive, completed one round of smoke testing, and completed eight work orders for sewer taps. Mr. Muckleroy advised they had set the dedication sign for the Keough's Korner, dug a ditch at 398 Berkley to improve drainage, and they cleared the sewer right of way from Pond Street to Louisa Street in preparation of smoke testing. Mr. Muckleroy stated they had repaired the asphalt at the Community Center walkway, replaced rotten wood and painted the gazebo at City Hall, and they completed 18 work orders for general City Hall maintenance issues. Mr. Muckleroy said they completed 21 work orders for maintenance for park issues, repaired a section of sidewalk at Cedar Brake Park, fabricated a trash screen for the fountain at Cedar Brake Park, and they set two new flag benches at both Fernland and Cedar Brake Parks. Mr. Muckleroy said the Fernland docents reported 478 visitors and they provided 53 tours for the month. Mr. Muckleroy said they completed 30 work orders for general maintenance issues, set up for the heavy trash weekend, celebrated National Public Works Week, and held their first Open House event, and placed flags around the City for the flag challenge with the Spirit of Texas Bank.

Tom Cronin asked if Mr. Muckleroy was aware there was a street sign down at College and FM 149. Mr. Muckleroy said the street sign has already been fixed. Mr. Muckleroy said he saw the sign on Saturday during the Water Party and he had it repaired.

Rebecca Huss asked about the meter at Bubble King and asked if the Badger meter did not work. Mr. Muckleroy said they ran enough water through the meter in the couple of months they were open and it had already hit its point of recommended rebuilding, which is when they learned about the ultrasonic meters, and for that size they are the exact same price as the disc meters. Mr. Muckleroy said they elected to go ahead and get one to try it out at this location since it is a high-volume account and they won't need to replace or rebuild the meter for 20 years. Rebecca Huss said if she recalled at the last discussion, this meter is not supposed to degrade over time, in terms of it's reading. Mr. Muckleroy said it is guaranteed accurate for 20 years. Rebecca Huss said in theory, with the high-volume, that is the best decision they could make because we don't have unexplained water loss. Mr. Muckleroy said rather than rebuild the meter, the disc meters wear out over time, in the customer's advantage, and read less and less accurate. Mr. Muckleroy said he has seen



rarities read as low as 55-65%, but most get down to the 90% range, and you are losing revenue the entire time they are reading inaccurately. Rebecca Huss said since they are the same price, there is hardly any risk. Mr. Muckleroy said the meter they pulled out of the ground they rebuilt, and it is ready to be installed into another account, so it was not a wasted meter.

Rebecca Huss asked if Mr. Muckleroy found anything from the smoke testing. Mr. Muckleroy said they have only done one round of smoke testing which was the Buffalo Springs area and most of the problems they found were private cleanouts in yards. Mr. Muckleroy said he has not finished building the report for that phase, but he knew that Mr. Michael Williams has finished the manhole inspection report which he received this afternoon and he will be reviewing the information. Mr. Muckleroy said it looks like there are some manhole issues they will need to take care of. Mr. Muckleroy said the cleanout issues are minor, with a lot of the caps getting broken off by lawnmowers because they stick up. Mr. Muckleroy said when they start making the repairs to the manholes, he felt they would see a difference. John Champagne said that was his question, whether they had found any major incursions. Mr. Muckleroy said he just received the report on the manholes this afternoon, but just with preliminary discussions with Mr. Williams, he is saying there are a good number of manholes that need raised because they are probably taking a lot of water in when it rains. Rebecca Huss said that is one of the newer sections of the City, which seems unexpected. Mr. Muckleroy said he has not reviewed the information yet, so he could not really give an answer without seeing the pictures.

Mayor Countryman asked if there had been anymore water theft from the hydrants. Mr. Muckleroy advised they had. Mr. Muckleroy said he was out for two weeks on vacation and there were two cases that were caught while he was gone. Mayor Countryman asked if there was a location that seems to be more active. Mr. Muckleroy said they catch them in different spots every time.

John Champagne asked about the property off FM 149, adjacent to Lone Star Estates towards the north. Mr. Muckleroy said that was the old sewer plant which is Lift Station 2. John Champagne said he had a resident indicate there is an opening because a gate has been removed on their side, and there are young people that are going in there and said he might want to investigate it. Mr. Muckleroy said it was probably on the backside where they cleared through there to do the smoke testing.

- C. Police Department Report – Police Chief Anthony Solomon presented his report to City Council and asked if there were any questions. Rebecca Huss asked how the Chief felt about the numbers in the report. Chief Solomon said he did not really look at the numbers and said the reason he says that is because when he talks about numbers it is about burglaries and things like that, those are the numbers that he wants to go down. Chief Solomon said when you start talking about total warnings and tickets issued then no, but when you are talking about burglaries, fraud and crimes, those are numbers of concern.

Chief Solomon said the last time we were here we discussed surplus vehicles, and he has had a chance to strip the vehicles, look at them, and he pulled the mechanical records on the vehicles. Chief Solomon said one of the vehicles has 46,000 miles on it, and what he has learned is they have pulled those vehicles out of line to be used for the reserve officers. Chief Solomon said one of those vehicles is in really good shape and one has a transmission issue. Chief Solomon said if they stripped the one vehicle down, they could get another two years out of the vehicle and it could be used as a pool car. Chief Solomon said the one vehicle with 46,000 miles on it runs well, they sent it to Stowe's and had the tires changed on the vehicle and had the vehicle checked. Chief Solomon said the vehicle is in good shape. Chief Solomon said he would rather not get rid of the vehicle if it is okay with City Council. City Council concurred that was a good idea.

Chief Solomon said he sent the City Attorney some departmental policies stating they are changing and revising a lot of the current policies. Chief Solomon said he has also sent those policies to his command staff to start reviewing them. Rebecca Huss asked what those are based on and whether the Chief wrote them himself. Chief Solomon said no, he did not write them himself; they took the policies they had on file and revised everything they thought was out of date. Chief Solomon said some of the policies they had were since 1999 and had not been updated since 2004. Chief Solomon said some of the policies they changed were the ones that could get the City, police officers, and everyone in trouble. Chief Solomon said they changed the Use of Force, Non-Lethal Weapons, Vehicle Pursuit, Active Shooter, Body Cam Policies, and they are working on all the others. Chief Solomon said these are policies that needed to be changed right away so they changed those and sent them to the City Attorney for review. Mayor Countryman asked if those policies were according to the State current policies. Chief Solomon said they were in line with the International Police Chief's Association and Texas Police Chief's Association, and stated those policies are always done to fit our community as well because there are different

dynamics in different places. Chief Solomon said last night we had one of our officers hit in the rear by a drunk driver so that is the third vehicle that has been hit. Chief Solomon said he has never seen a place where so many officers get hit by other people. Mayor Countryman said this just started happening. John Champagne asked if the person was traveling at a high rate of speed when she hit the officer. Chief Solomon said she was driving 82 plus miles per hour when she hit the officer and said fortunately, he was moving because if he had not been moving, it would have been very bad. Chief Solomon said the officer is in good shape and said he went to the hospital last night to pick him up and bring him back to City Hall so he could go home. Chief Solomon said the accident occurred on SH 105 about one block west of the Kroger Center.

Tom Cronin asked if the Chief had any intention of working with local businesses for some training on active shooters. Chief Solomon said he spoke with the MISD Chief of Police last week and that was one of the things they discussed was bringing in an Active Shooter Program because they can bring in citizens, business leaders, City Council, and everyone. Chief Solomon said they have talked about having the Program at the Community Center. Mayor Countryman asked if the Alert Trainings qualified them for Active Shooter or are those just extra training. Chief Solomon said the Alert Training is just that, but the Active Shooter training is a whole different type of training that will give you a sense of being at a school, grocery store, or any of those type of places and is really a benefit. Mayor Countryman said they would promote that on our social media and web pages.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett said the Court collected \$29, 687.31 and the officers brought in 139 citations for the month of May. Mrs. Duckett said she felt things are fluctuating because they are transitioning, and they have officers that have been on leave and light duty. Mrs. Duckett said the warrant officer has been doing very well and has been going out and serving a lot of warrants that are in the local jail and is working diligently to figure out anything they can to help serve the warrants. Mrs. Duckett said they met with the Judge and Prosecutor last Thursday to discuss some of their files need to be purged. Mrs. Duckett said some of the warrants should not have been warrants to begin with because they are not an actual person and there is no actual driver's license, no real information, and they have just filtered over to a warrant. Mrs. Duckett said they are going to be meeting with the Prosecutor to figure out a time frame they can purge the old warrants off the wall. Mayor Countryman asked how someone without a real name has a warrant.

Mrs. Duckett said if someone gets a ticket for no driver's license and then they don't show up for Court, that person moves from a citation, after receiving so many letters, and it becomes a warrant.

John Champagne asked how many hours the warrant officer works. Mrs. Duckett said he works about 18 hours per week, which includes his Court dates. John Champagne asked Mrs. Duckett if the warrant officer is bringing value to the department and if so, how. Mrs. Duckett said he has just by touching the warrants and the collections and he has brought in several amounts of money in the last couple of months. Mrs. Duckett said whenever the warrant officer gets a person that is on the phone to pay the warrant, he is immediately transferred to the Court to make payment.

Rebecca Huss said in the past months Mrs. Duckett had given a chart that showed how much the warrant officer has brought in and asked if that was something that she could continue to do. Mrs. Duckett said she could continue to do that. Rebecca Huss said it was interesting facts for City Council. Mrs. Duckett said the warrant officer makes sure that his information matches what is in Incode, so it will be a very accurate number.

- E. Utility/Development Report – Mr. Tramm presented the report to City Council. Mr. Tramm advised there were 28 new water accounts in May for 775 total active accounts. Mr. Tramm said the total revenue for the month was \$221,968.66, including \$162, 572.74 for utilities, \$22,232 for permits, the Community Building brought in \$1,080, \$2,035 from the sale of Texas flags, and the miscellaneous General Fund was \$33,540.92. Rebecca Huss asked if the \$22,000 for permits was including when the permits were closed for a week or two. Mr. Tramm said that was a different timeline. Mr. Tramm said there were 76 various type permits issued. Mr. Tramm pointed out, under the water consumption for the City accounts, Memory Park usage was down to 32,000 gallons from 115,000 gallons a couple months ago with the water leak. Mr. Tramm said it is still a large amount, but obviously they take great pride in the Park.
  
- F. Water Report – Mr. Michael Williams, Gulf Utility Services, presented his report to City Council. Mr. Williams said they had several district alerts that were all associated with power faults or rain events. Rebecca Huss asked if there was a dollar value on how much extra it costs the City to respond to all these alerts. Mr. Williams said they are paid about \$55 per hour. Rebecca Huss asked how many hours were involved. Mr. Williams said if

it was something where the operator got out there and everything was normal and they reset the system and leave, they are looking at 2- 2.5 hours, if there is a more extensive problem where they have to stay out there, it could be 4, 6 or 8 hours. Rebecca Huss said about a year ago they had talked about some of the things that can be operated remotely, so they might need to start looking at some of these calls such as the electricity generated alerts that don't actually require someone to do anything, but you are required by law to monitor. Rebecca Huss said they might be at a transition point where some of the bigger things that need monitoring, that can be done remotely, does not cost the City \$200 to do nothing. Mr. Williams said they have investigated some SCADA Systems that could do that, and you are looking at a ballpark of \$30,000 to \$50,000 for each Lift Station. Rebecca Huss said if they last 10-15 years the alerts add up.

Mr. Williams said the Wastewater flow for the month of May was 5,370,000 gallons, peak flow occurred on May 10<sup>th</sup> at 359,000 gallons, and the average daily flow was 179,000 gallons. Mr. Williams stated all effluent samples were in compliance for May and they totaled 7.5 inches of rain. Mr. Williams said they sourced a total of 8,894,000 gallons of water, with the total flushing and leaks amounting in 421,000 gallons, and they sold 8,167,000, bringing them to a 96% accountability. Mr. Williams said they are up to 881 connections. Mr. Williams said for the month they had a 66% return to the Wastewater Treatment Plant.

Mr. Williams said they completed the manhole survey and they sent the report over today for them to review. Mr. Williams advised they also completed their first round of grease trap inspections and they are going back out tomorrow for their second round.

Rebecca Huss asked if they could get a preview of the results of the smoke testing. Mr. Williams said they are looking at approximately 35-40 with inflow issues that need to be raised. Rebecca Huss said that was a huge number of manholes. Mr. Williams said there was about the same number of manholes that need to be resealed from the inside that have infiltration through seams or holes in the sides of the manholes. Rebecca Huss said it is budget season, so we need to know those numbers. Mr. Williams said Mr. Muckleroy is looking the information over and he is sure he will relay the information.

Mayor Countryman said since grease traps have been an exciting topic lately, how many have had to be re-inspected. Mr. Williams said last month they gave a waiver to all the

business owners, if they did fail, because they are coming in as a contractor for the City and we do the inspections differently than what the City did. Mr. Williams said they are letting the businesses know what all the requirements are because there were two or three that did not pass. Mr. Williams said next month when the \$50 re-inspection fee takes place, they won't have everyone on the reinspection list. Mr. Williams said they will do the initial inspections tomorrow and then 10 days later, they will do the reinspection.

Mayor Countryman asked the City Secretary if there has been a Records Request from a restaurant owner that had a question and stated that she never had any grease trap inspections. Ms. Hensley advised she had not received a Records Request for that information.

John Champagne asked when Mr. Williams was contracted to do the grease trap inspections, he thought the City was doing them. Mr. Williams said the City was doing the inspections, and they were contracted to do the inspections because the cost was equal to what was being charged to the business owners, so it was one less thing on their plate and it is not costing the City any extra cost. John Champagne said he was all for outsourcing. John Champagne asked Mr. Muckleroy what precipitated this action, he thought we were doing a good job. Mr. Muckleroy said they were doing a decent job, but they had a conversation with Gulf on what perimeters they used and what all they looked at, and it seemed like it was a lot more technical and detailed than what they were doing, more than just a visual inspection, so he brought the subject to Mr. Yates, Mr. McCorquodale, and Mr. Williams and they all discussed it. John Champagne asked what the charge was. Mr. Muckleroy said it was \$45 to the City and the cost for the customer remained the same at \$50 per month for grease trap inspections. Gulf charges the City \$45. Mayor Countryman said this issue has been talked about extensively with City Council for the last two or three months, since January or February.

Tom Cronin said from his perspective, with Mr. Williams, he feels the communication is better and he likes the procedures they are going through, and by giving everyone a waiver. Tom Cronin said he would like to know what the process for rejection is that Gulf is going to do. Tom Cronin said Gulf will check the grease traps tomorrow and then what happens if it is rejected. Mr. Williams advised following the inspection, whether it is rejected, they give the business owner or employee written notification as to whether they passed or failed the inspection, and then if they fail, they will be back in 10 days to reinspect. Mr. Williams

said have a manifest and they must pass all the parameters. Tom Cronin asked if they were looking at a manifest now. Mr. Williams said yes.

- G. Engineer's Report – Mr. Roznovsky, City Engineer, presented his report to City Council. Mr. Roznovsky said the bonding company for the Baja Project has submitted a proposed contract and they are reviewing the final close out numbers from the Boretex contract, including all the damages to make sure they are accounted for. Mr. Roznovsky said once that is completed, the bonding company will issue a lump sum check to the City to cover the delta between the bid price of the new contractor and current contract. Mr. Roznovsky said they expect to have that number finalized tomorrow. Rebecca Huss said if the new contractor does not perform or goes over, then the City must go through the whole process again or deal with the contractor, the bonding company is not going to perform that function. Rebecca Huss said the bonding company is giving the City a lump sum, they are not guaranteeing anything, we are going to have to deal with them for all the other issues that we dealt with Boretex. Mr. Roznovsky said the new contractor completely assumes that contract, so it is the same terms and conditions of the contract. Rebecca Huss said the City assumes them as well. Mr. Roznovsky said that is correct. Rebecca Huss said they are not closing out the Boretex contract and getting a road, and the bonding company deals with all the problems in between, we are still accumulating attorney, engineering and inspection costs, and hoping that it is fitting into the lump sum that they are giving the City. Mr. Roznovsky said the extra time for engineering and public works has been accounted for and reduced from what is being paid to Boretex, so instead of \$60,000, the number is closer to \$30,000, so a significant portion is being held back. Mr. Roznovsky said the new contractor, if he damages something, it will be a new issue and if he has delays, it will be a new issue. Rebecca Huss said she just wished the bonding company would deal with everything after this because we were supposed to get a road and we still don't have a road; we must go through the process ourselves. Mr. Roznovsky said the bonding company is still there and they have been extremely easy to work with, it has been an easy process so far. Mr. Roznovsky said the contractor they selected is the second low bidder on the project, who we have worked with extensively all throughout the area and they are a good contractor. John Champagne said they need to get the project done. Tom Cronin asked if there is somehow to communicate with those residents and let them know what is going on and maybe keep them apprised of any success we have out there. Mr. Roznovsky said they need to communicate more, especially when they know the new timeline for the contractor, at a minimum putting out doorhangers and letting people know what is going

to be happening. Mr. Roznovsky said with the Phase 2 Project, the communication could be improved. Mr. Roznovsky said the Phase 2 Baja Project survey work is complete and he has a call with the grant administrator in the morning to clear up the final paperwork to keep the project moving forward.

Mr. Roznovsky said the Lift Station and Water Replacement Project contracts and Water Development Board documents are all back and they are just getting the final execution sign off from the Water Development Board to issue the Notice to Proceed. Mr. Roznovsky said it was the same thing with the 18-Inch Phase 2 Project, they are ready to issue the Notice to Proceed.

Mr. Roznovsky said they reviewed the plans for Christian Brothers Automotive and returned comments to them last week. Mr. Roznovsky advised Lake Creek Village, Section 3, cleaned out their ditches and culverts last week, so now they will be checking the rest of their punch list so they can bring the release of the one-year warranty to City Council.

Mr. Roznovsky said they are working with the developer on Louisa Lane regarding the land swap pertaining to Water Plant 2 sites and future Water Plant sites. Mr. Roznovsky said the parcel has been determined and they are working on the legal description.

Mr. Roznovsky said he wanted to give an update on the FM 149 turn lane, stating that TxDOT had come back with comments regarding the description and they wanted the City to set the monuments, which has been completed. Mr. Roznovsky said the monuments have been set and they have returned the revised description to TxDOT last week, so they should have it all down to complete the right of way and turn lane.

H. Financial Report and Quarterly Investment Report

Mr. Tramm reported the General Fund balance is \$1,217,021.54, Montgomery EDC has a balance of \$933,613.71, the Utility Fund balance is \$1,084,808.25, and the total of all funds together is \$6,571,305.56. Mr. Tramm said the General Fund shows a year to date income of \$168,200.39, Utility Fund shows a year to date income of \$310,846.06, which does not account for the majority of the \$274,200 that is to be moved to the Capital Projects Fund which is to be done before the end of the fiscal year. Mr. Tramm said that will still leave around \$40,000 on the plus side for this time of the year. Mr. Tramm said he will be getting



the transfers done between now and the end of the year. Mr. Tramm advised the City has been provided the Quarterly Investment Report.

❖ Sales Tax Report by Ryan Fortner

Mr. Fortner presented the Sales Tax Report to City Council. Mr. Fortner advised they do come out every six months and conduct a physical canvass of the City, stating the last time they were out in February. Mr. Fortner said in March 2019 they picked up 264 total entities, which was 30 more than the last time they were out here. Mr. Fortner said 20 more sales tax permit holders were notated back in March, the nontaxable entities remained the same, service only has picked up five, vacancies remained the same, and miscellaneous picked up by five. Mr. Fortner said they are scheduled to come out in July and do another physical canvass of the City that will wrap up in July/August.

Mr. Fortner said through May, utilizing the information from the State Comptroller as well as our own physical canvass audit, they have noticed there are 5,045 active taxpayer accounts coded to the City of Montgomery. Mr. Fortner said most of those taxpayers are e-commerce related. Mayor Countryman asked if she ordered something from LL Bean that becomes one, and then from Converse that becomes another one. Mr. Fortner said that was correct.

Mr. Fortner said for their 13-month running total from May 2018 through May 2019, he pointed out in 2018 the City had 1,637 sales tax filers, and this May the City had 2,045, which represents a 25% increase. Mr. Fortner said they are not seeing anything much lower than a 20-25% increase in the sales taxpayers pay each month, stating that is driven by e-commerce. Rebecca Huss asked if that was just for the City or was that pretty standard. Mr. Fortner said they are seeing that for the ESD's and all the Special Purpose Districts and the MUD clients as well. Mr. Fortner said their ESD's are averaging between 83 -90% e-commerce, which is good because they keep hearing about the retail apocalypse and the baby boomers retiring and what this is going to do to spending for brick and mortar businesses, and as the brick and mortar businesses go out of business, Amazon picks up. Mr. Fortner said they are verifying the numbers with the State Comptroller's Office. Mr. Fortner said they are averaging 20-25% increase in a 13-month period.

Mr. Fortner said February 2019 still does reflect the highest sales taxpayer month, which was \$10,057, the highest in the City's history. Mr. Fortner said looking at the statistics of where the City has gone for 2019, he was confident the City will eclipse that number in the next quarter. Mr. Fortner said for the calendar year \$1,222,887 has been received and for tax year 2019, \$792,826 has been received with six months remaining.

Mr. Fortner said the top 25 sales tax filers for 12 months combined are listed, and pointed out that Kroger is a quarterly filer, therefore they will always appear on the quarterly reports and they file in large amounts. Mr. Fortner said they verify that information as well. Mr. Fortner said Brookshire Bros. has had a significant increase in their filings, so business is doing great for them and we see them reporting in the top 10 when they file, and many times in the top five. Mr. Fortner said in 12 months, these top 25 businesses have remitted \$1,717,515 to the City.

Mayor Countryman said she sees Restoration Hardware and said the City does not have a store here and asked if that was e-commerce. Mr. Fortner said that was correct. Mr. Fortner said if anyone has shopped Restoration Hardware, it is very easy to spend a lot of money at your tax rate and see them reflected. Mr. Fortner said he would not expect Restoration Hardware to be a fixture, but some individuals made a pretty hefty purchase. Mayor Countryman asked about Skipper Beverage Company. Mr. Fortner said these businesses you see listed are what the State has listed, and many times a business will file under the name such as Skipper Beverage Company, even though it is another name. Mr. Fortner said if the City would like, they can covert that information to state the actual business name versus what the State has on file. Rebecca Huss said the only thing she would be interested in would be if they could do the sales tax year to the City's fiscal year, which would an interesting thing for the City since our fiscal year is October 1 through September 30. Mr. Fortner said they can discuss that information on page 10 of the report.

Mr. Fortner said during the month of May \$191,755 was remitted, which is 67% of the total check that the City receives from the State, so these top 25 businesses produced a lot of revenue. Mr. Fortner said they also like to see how many businesses are remitting over \$1,000, stating they use the \$1,000 as the cut off mark because that is a large amount of revenue the business is generating and also helps to indicate the overall

economic health of the sales tax area. Mr. Fortner said in May the City had over 40 businesses that filed sales tax exceeding \$1,000, and those businesses represented almost 75% of the City's allocation. Mr. Fortner said they haven't seen this number drop, so business in the City is good and the businesses operating in the City are enjoying that.

Mr. Fortner said they had a significant increase in revenue in the quarterly month versus an average month, \$85,000 versus \$191,000. Mr. Fortner said they found around 96% of the City's allocations from the State in sales tax is from e-commerce. Mr. Fortner said they have also confirmed the businesses that are on the ground with Nexus and of those businesses, 79 filed in May, and the remaining 1,966 were from non-physically located entities in the district.

Mr. Fortner said going back to January 1, 1995, the City has received \$26,337,789.00 and the June allocation will reflect \$191,260.13. Mr. Fortner said they also like to update the top tax categories, and the 25 categories have put in over \$2,445,000 to the City. Mr. Fortner said in comparison, June 2018 was \$151,000 and June 2019 was \$191,000, which is a 27% increase over last year, and this is a number they are seeing hold steady. Mr. Fortner said many of their clients ask when that will level out, and he said the City is pretty steady and they don't see any erratic swings where one month you are negative and another you are positive. Mr. Fortner said they red flag this because if they start seeing negative decreases, they need to figure out what is going on, but so far, they have not seen that happen. Mr. Fortner said the 2019 fiscal year is \$1,719,553 compared to the budgeted amount of \$2,815,390. Mr. Fortner said the City is 61.08% with four months remaining. Mr. Fortner said in order to reach the fiscal year goal, the City will need to receive a monthly check of \$219,171.24. Mr. Fortner said the City does have a mean allocation for tax year 2019 of \$203,000 a month.

Mr. Fortner said in 2019, January was the only month this year the City had a decrease over 2018, so far, every single month this year the City has exceeded revenues over last year. Mr. Fortner said there were some high filers in January of 2018, and said this happens, there was nothing erratic or incorrect, they confirmed that information. Mr. Fortner said it is a good problem to have, but makes the graphs skewed for that month. Mr. Fortner said in 2018 the City only had two months when the City was

below, and it was anywhere from 8-60% higher than the previous year, so streams of revenue continue onward and upward for the City.

Mr. Fortner said they did submit, on behalf of the City, a listing of businesses and sales tax permits they feel have compliance issues, they may or may not have them and it might just be an issue where they have not made qualifying sales or they have changed filing status. Mr. Fortner said when they get a red flag mark, they turn that information over to the State. Mr. Fortner said the State representative is working those accounts and now that he has started, they have 44 working business days to give them a replay. Mr. Fortner said anything on those accounts is only eight months in arrears because they had already done a recovery for the City and cleaned up the errors they found, so they are not having to go back five or six years. Mr. Fortner said if there is any report from the State, he will file it with the City and a recovery will come to the City two months after that report and notated in the allocation.

Mayor Countryman said this was a great report and she always looks forward to the presentation. Mr. Fortner said he will be working with Mr. Tramm because he has asked for some specific information regarding the top 25 taxpayers, which he will provide him tomorrow. Mr. Fortner said it is confidential information, so he will get that in a private email.

Rebecca Huss moved to accept the Departmental Reports as presented. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 98, "ZONING," BY RECLASSIFYING 0.5-ACRES IN TRACTS 15-A AND 83-A IN THE OWEN SHANNON SURVEY, ABSTRACT 36 IN MONTGOMERY, LOCATED AT 712 COMMUNITY CENTER DRIVE FROM AN "I" INSTITUTIONAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE.  
*(Tabled at the June 11, 2019 City Council Meeting)*

Mr. McCorquodale advised this was tabled at the last City Council Meeting and asked staff to do some follow up, which has been completed along with a list of uses in a commercial district.

John Champagne moved to accept the proposed Ordinance as presented. Tom Cronin seconded the motion.

Discussion: Rebecca Huss said she thought this is a huge mistake given the permitted uses that show up here, as Tom Cronin has mentioned, the Cottage Food Industry provides Ms. Easley with a lot of usage and allowed to do a lot without the rezoning. Rebecca Huss said we have indicated that the City is willing to do a Special Use Permit, but once we rezone it, it changes the neighborhood upon her sale, which obviously she does not intend to do according to the description, but that gives the opportunity for uses like automobile filing station, automobile repair, dairy equipment wholesale, department store, electrical repair, electro plating, exterminator, farm equipment sales, fish market, fixit shop, floor covering sales, grocery store, heliport, hospital or sanitarium and hotel. Rebecca Huss said there are a lot of things on the list that do not belong in that neighborhood, and her inclination is to go with the recommendation of the Planning and Zoning Commission, which denied the request for rezoning. John Champagne asked if they did deny the request. Rebecca Huss said they did.

John Champagne asked Mr. McCorquodale for his comments. Mr. McCorquodale said he felt if they rezone the property to Commercial, certainly it does allow more uses. Mr. McCorquodale said does he think in the next couple of months or even couple of years the property is going to turn into Commercial, no he did not. John Champagne said that was beside the point. Mr. McCorquodale said in terms of results of what he thought would happen based on City Council's action tonight, did he think anything substantial will happen within the next few years, he was just giving them the information. John Champagne said Mr. McCorquodale submitted this information and he is assuming that it is his belief this would be an appropriate thing to do. Mr. McCorquodale said the Ordinance gives you the opportunity to do that, but again, it is the Planning and Zoning Commission's recommendation that the property not be rezoned. Mr. McCorquodale said the Ordinance is there because in order to act on it, this Ordinance is the only way to do that. Mr. McCorquodale said without the Ordinance, he would not have given City Council any choice at all, he would have just said no.

Mr. Tramm said if you look in the description in Mr. McCorquodale's report, it says the request to rezone was generally planning for the future, so this is certainly something that could come back

to City Council if there is a reason to change the use in the future. Mr. Tramm said the Planning and Zoning Commission recommended to not reclassify the property, which is another reason to not change the use. Mr. Tramm said he went out and looked at the neighborhood himself because he was generally unfamiliar with it. There is a school immediately across the street from the property, and a City park next to it so otherwise, it is all residential in that area. Mr. Tramm said he thought you run the risk of that changing the character of the neighborhood with just a blanket commercial zone. John Champagne said he had forgotten the Planning and Zoning Commission had rejected this.

John Champagne rescinded his motion.

Mr. Foerster said the property owner is present, Mrs. Patricia Easley, and he did not know if she had any comments to make in connection to this. Mrs. Easley said no, she spoke with Mr. McCorquodale and she respects what their decision is.

John Champagne apologized and said he spoke to Mr. Arnette Easley about this and they were adamant about wanting to do this. Mayor Countryman asked if this was particular to Mrs. Easley's address. John Champagne said not the whole group of properties in this area. John Champagne asked if Mrs. Easley indicated she wanted to change to commercial. Mrs. Easley said yes, she did for the reasons she explained.

John Champagne moved that his motion was back on the table to accept the proposed Ordinance as presented.

Rebecca Huss stated that as she stated, City Council can operate with a Special Use Permit that gives her the right to expand in the way she wants and suitable for the neighborhood without opening the door to these other things. Rebecca Huss said they are supportive of small businesses. Mrs. Easley said she had listed a lot of businesses that could possibly go there and asked if there aren't requirements in zoning that prevent certain businesses from coming in. John Champagne said no, not once it goes to Commercial. Rebecca Huss said that was the problem, it is either or. John Champagne said that was his reluctance when Mrs. Easley and he corresponded, but if the community wants it. John Champagne said his concern was that a convenience store would open up right behind Mrs. Easley and she is already having problems with the park, and now you have a convenience store in your backyard, but if that is what they want, they can do it. Mrs. Easley said

she did not think that was going to be an issue. John Champagne said all he is saying is once you go to Commercial, the potential exists. Mrs. Easley said she knows that.

Rebecca Huss said she is going to vote against it because the Special Use Permit is the best way and they don't open it up for other things.

Tom Cronin said he wants to do what the citizen wants; we spoke with her relative and he said he felt it would be good for the community. John Champagne said they are only talking about her property. Tom Cronin said he knows, but it is a relative of hers that they spoke with, Arnette Easley, and he said he was all for commercial if Mrs. Easley wants it. Tom Cronin said if Mrs. Easley wants it to be Commercial, he thinks she has lived there long enough that she realizes what the potential could be, so he will vote for it. Rebecca Huss said she will be gone and won't have to deal with the impact. Mrs. Easley asked why she would be gone. Rebecca Huss said if you live in your house and you operate your business in a manner in which is suitable for the neighborhood, but then you decide to sell the property and move, then somebody can have any of the businesses on the list on that property. Mrs. Easley said all of those are just hypotheticals, stating she was born and raised in that same spot, she is 64 years old. Rebecca Huss said that is the problem with rezoning something, they lose the ability to say this, and if this is hypothetical, then why do it. Rebecca Huss said she is going with the Planning and Zoning recommendation because that is what she thinks is best, to look at all residences on the street.

Ms. Hensley stated the motion was rescinded by John Champagne and then John Champagne moved again to approve the Ordinance as presented and said there needed to be a second to the motion.

Tom Cronin seconded the motion.

Rebecca Huss said that is her feeling on the action, it was the recommendation of the Planning and Zoning Commission and it is her personal feeling they have to consider the whole neighborhood and, in her opinion,, that is the best thing for it. John Champagne said that was noted.

Mayor Countryman asked Ms. Hensley if there was a motion on the table. Ms. Hensley advised there was a motion and a second to approve the Ordinance as presented.

The motion carried with 2-Aye votes and 1-Nay vote by Rebecca Huss. (2-1)

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 78 "SUBDIVISIONS" OF THE CITY OF MONTGOMERY CODE OF ORDINANCES BY AMENDING ARTICLE VII, ENTITLED "TREE PRESERVATION AND REPLACEMENT;" PROVIDING CERTAIN DEFINITIONS; PROVIDING REGULATIONS FOR TREE PRESERVATION AND PROTECTION; CREATION OF A CITY TREE FUND; CREATING AN ACCEPTABLE NEW AND REPLACEMENT TREE LIST; PROVIDING A FEE SCHEDULE FOR IMPLEMENTATION; PROVIDING FOR CRIMINAL PENALTIES AND CIVIL ENFORCEMENT; REPEALING CITY TREE ORDINANCE NO. 2016-20 AND ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. McCorquodale presented the information advising there was one change to remove the language regarding the residential buffer zone from the Ordinance. Mr. McCorquodale said after talking with the City Attorney and looking back at the existing Zoning Ordinances, a buffer zone is already required where residential and nonresidential meet, it is just called the side yard setback, requiring they preserve the protected trees in those side yards and accomplishes the exact same thing without needing to have a new term and definition.

Rebecca Huss said the developers at the last meeting were very effective. Mayor Countryman said Mr. McCorquodale did a good job.

Rebecca Huss moved to approve the Tree Ordinance as presented. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

8. Consideration and possible action regarding an Encroachment and Maintenance Agreement with Blue-Wave Car Wash for Monument Signage in the Utility Easement.

Mr. Herrera advised the monument sign permit that was applied for was partially over the easement, so there was an encroachment filed and the permit was not issued. Mr. Herrera said they have done a survey, which they submitted to Mr. Yates and sent some photos of what they had in mind with the business next door. Mr. Herrera said they are in the requirements of the overall height and square footage the City is allowing, so they are just asking for the setback to be the same as the



neighboring business. Rebecca Huss said there is the City Engineer's letter saying it is not in conflict with any of our existing public water and sanitary sewer lines.

John Champagne moved to approve the Encroachment and Maintenance Agreement as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

9. Consideration and possible action regarding acceptance of construction bid on the Atkins Creek Project.

Mr. Roznovsky said they have been working on this project since Hurricane Harvey and FEMA finally gave the final write up in May of this year. Mr. Roznovsky said the first time they went out for bids on the Atkins Creek Project they did not receive any bids, and the second time when they rebid on June 4<sup>th</sup>, they received one bid from Solid Bridge Construction. Mr. Roznovsky said the contractor is a good contractor, however, his bid was \$200,000 higher than the estimate on the project. Mr. Roznovsky said since they only received one bid, they did not feel it was right just to go with that number. Mr. Roznovsky said they went back and looked at different ways to adjust the scope and see how they can get the project back to within the budget.

Mr. Roznovsky said what was proposed originally was concrete and riprap both sides of the channel all the way across, so this is modifying it to keep that concentrated on the Terra Vista side, where they have water coming down and around the proposed piers to be installed. Mr. Roznovsky said something in the future is going to have to be done to the creek as a whole to address more than just the 30 feet of easement, so instead of trying to get ahead of it and doing it in this project, they take that out of the scope, which will reduce the estimated cost by approximately \$225,000. Mr. Roznovsky said one of their concerns, by doing that, is that the one contractor that bid will not bid again, so they have discussed this with them, and they said they would rebid.

Mayor Countryman asked if the difference of the \$225,000 was over or under engineering, because we are giving up future work that is going to need to be done. Mr. Roznovsky said there was extra protection that was protecting against anything that could occur in the future. Mr. Roznovsky said it wasn't just because they could, it was knowing the pipes would be prevented from future failures and completely covering it. Mr. Roznovsky said something will have to come on the heels to address the channel as a whole, and what they did was look at where the channel was in 2017 and the width that it is today over that period of time, and it has not changed much in width at all for that area, except it has gotten deeper, but it has stabilized. Mr. Roznovsky said they feel that by

doing the modified scope they are not opening it up to additional risk until that next project comes up a couple years down the road. Mayor Countryman asked if the next project is another failure. Mr. Roznovsky said no, they don't feel if this is not done that it is going to fail in the future, the supports are there and they will be protected. Mr. Roznovsky said it would take the channel eroding back an extra 40 feet total on the sides to get around the pipe, and even then, it is still supported so they are not opening themselves up to risk.

Rebecca Huss said it was interesting they chose value engineering and that it had such a substantial difference and then the question would be, should we be doing that with all of our major projects, which we have not been doing, so some of our more controversial projects like the Bridge might have benefitted from such analysis. Mr. Roznovsky said in all the projects they have looked at different options, which the Bridge had several different options. Mr. Roznovsky said the bid prices for this project were higher than anything they have normally seen based on the reasons. Mr. Roznovsky said if the bid prices were in line, they would be recommending the scope they had, but without sacrificing or opening us up to risk, this is the change they are presenting. Mr. Roznovsky said the Bridge came in right at the budget they were estimating and wanting to see. Mr. Roznovsky said the City's share of this project is 10%, so if you are looking at the City's share, this is a \$22,000 difference in relation to the \$200,000 total, but looking at the project as a whole, it makes sense to look at different options. Mayor Countryman said they are not just over protecting; they are just right sizing. John Champagne said basically they are buying a car they can afford. Mr. Roznovsky said instead of trying to get ahead and protect everything at that easement today to its ultimate extent of what that channel could look like in the future, they are addressing what is there today and protecting what is there today and what is proposed with minimal risk, and then the ability to change that in the future whenever that channel gets addressed.

John Champagne moved to reject the bid as presented and to rebid the project as modified. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said they are rejecting the bid and accepting the rebid process. Mr. Roznovsky said they authorize the rebid and they will have the proposal at the July 23, 2019 Meeting.

The motion carried unanimously. (3-0)

10. Consideration and possible action regarding assigning a possible General funded project grouping consideration to the Planning and Zoning Commission.

Mr. Yates said this is meant as the first general discussion regarding how to fund several upcoming large projects needed for the general-purpose needs of the City that are not water and sewer. Mr. Yates said they have had the discussion about the need for an addition to City Hall and how to pay for the downtown streetscape. Mr. Yates said he is suggesting that City Council start a process of deciding what projects they do want to do. Mr. Yates said there are several ways of financing these projects that might not even require long term financing. Mr. Yates said the debt service fund is in such good shape and if they keep drawing and putting the same percentage into the debt service fund as they do now, in three or four years they could pay for all this with the surplus from the debt service fund.

Mr. Yates said the reason he is saying they may need to borrow some funds or that they need to come up with some specific way of financing it, is because even though we have grown in our general fund income over the past several years because of sales tax and property tax increases, those funds will get used by the growth of the City. Mr. Yates said Public Works has added one employee each year, and one or two Police employees each year. Mr. Yates said with those personnel comes costs, such as vehicles, so even though we have increased our income, we have also increased our expenses to where the gap between revenue and expenses is not really increasing our reserve fund balance. Mr. Yates said the reserve fund balance in general fund in 2013 was \$972,000, and in 2018 it is \$1,265,000. Mr. Yates said the City has really been staying almost equal as far as the fund balance. Mr. Yates said he has heard City Council say several times they want to work up to five or six months of fund balance, so this is a way of thinking how to finance these projects that have been building up over the last several years. Mr. Yates said they are getting to a critical point, like the Police Department and needing more space at City Hall. Mr. Yates said each of these projects need their own thought process. Mr. Yates said such as the Police Department being put back in the southwest corner from City Hall because the City owns all the way to the fence of the cemetery. Mr. Yates said they could also bring in dirt and through compaction, create some more land because the ditch is deep enough.

Mr. Yates said he has several projects listed, but the way they come up with the projects is by way of the Planning and Zoning Commission and the community plan that is being worked on with the Texas A&M. Mr. Yates said you would come up with a list of immediate projects, and then by the time you got to the point of spending the money, you would have done the research on the projects.

Mr. Yates said there are also traffic improvements that they have discussed regarding the right-hand turn lanes that are needed at SH 105 and FM 149. Mr. Yates said the cost of getting the appraisal for the traffic project might not cost very much, but like the southeast corner of FM 149 and SH 105, which was a clean purchase that still cost \$140,000. Mr. Yates said if they do that on the two corners of FM 149 and SH 105 and FM 2854, they could easily be into \$200,000 - \$300,000 requisition costs. Mr. Yates said if they did that project TxDOT would do the paving of the project. Mr. Yates said there is match money available for most of these projects. Mr. Yates said for the street improvements he thought they could do a detailed inspection of all the streets and drainage issues in town to try and solve 10 years' worth of issues here. Mr. Yates said they could either borrow the money, but he thought they could do most of this by creating \$1 million dollars in the City's debt service fund over four or five years, or they could do short term borrowing and borrow for that year and then pay it back in mid-September and then borrow again in the following October. Mr. Yates said by doing short term borrowing it saves the City the costs of a financial advisor and bond counsel which is approximately \$70,000 to \$80,000.

Mr. Yates said this is not a request for an answer, but they are running out of time on some of these projects, and we are running out of space at City Hall. Mr. Yates said they need to start now on the right-hand turn lanes. Mr. Yates said the Montgomery EDC had asked him how they were going to fund the streetscaping improvements, and he advised them there were three ways, either spread it out over three years, but that would keep the downtown area torn up for three years. Mr. Yates said they could do the project in one year, with the MEDC putting \$200,000 toward the project and the City could put \$100,000 toward the project and accomplish the project in nine months. Mr. Yates said that would not solve anything regarding the Police Station or other needs.

John Champagne asked if they were still waiting for TxDOT on the right-hand turn lane. Mr. Yates said yes, stating that was mentioned during the City Engineer's Report. Mr. Yates said he had sent TxDOT a letter in December 2018 and he did not hear anything until February 2019, when he was told that someone was looking into the project. Mr. Yates said he did not hear anything more until May when he got in touch with Senator Nichols and Representative Metcalf and since then, TxDOT has been very prompt and moving forward.

Mr. Yates said at this point, City Council needs to consider whether to assign this to the Planning and Zoning Commission. Mr. Yates said the Planning and Zoning Commission discussed this information last night at their meeting and they are willing to take this on, but they also said they wanted a Citizen Committee. Mr. Yates said he did not have any recommendations at this point,

these were just examples. Rebecca Huss said they would have the Planning and Zoning Commission look at the major projects that are outstanding and maybe rank them with dollar values and get input from the citizens on what their priorities are. Mr. Yates said yes, then they could come back to City Council with a list of preliminary costs and the detailed planning could start on the tentative list.

Rebecca Huss said the Planning and Zoning Commission obviously does great work, so she hoped to see more. City Council thanked Mr. Yates for his presentation.

**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 items at this time)

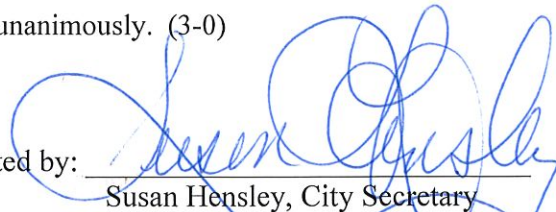
**COUNCIL INQUIRY:**

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 comments made.

**ADJOURNMENT**

Rebecca Huss moved to adjourn the meeting at 7:58 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

Submitted by:   
Susan Hensley, City Secretary

Date Approved: 07/09/2019



  
Mayor Sara Countryman