

MINUTES OF PUBLIC HEARING and REGULAR MEETING

September 10, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:02 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent:

Also Present: Richard Tramm City Administrator
Susan Hensley City Secretary
Larry Foerster City Attorney
Chris Roznovsky City Engineer

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING

Convene into Public Hearing:

For the purpose of giving all interested persons the right to appear and be heard regarding the following:

1. Budget Public Hearing: for the proposed of hearing public comments regarding the proposed 2019-2020 City of Montgomery Fiscal Year Operating Budget.

“THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$72,975 OR 7.19%, AND OF THAT AMOUNT, \$62,185 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.”

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

Mr. Tramm stated that while the Mayor read the required legal wording into the record, the vast majority of the increase came from new properties that were added to the City, such as vacant land that might have been constructed on and a lot of commercial and residential property. Mr. Tramm said a small portion actually came from assessment of existing properties.

Jon Bickford stated he felt the point is they did not have to increase taxes to any of the citizens. Mr. Tramm said the City is keeping the tax rate the same as it was in the last year. Mr. Tramm said the City is providing increased services to the City, with increased staff, infrastructure and increased planning ahead of the bulk of the growth that is beginning in the City. Jon Bickford said those are good points and thanked Mr. Tramm for bringing those up.

Mayor Countryman closed the Public Hearing at 6:06 p.m.

Adjourn Public Hearing

Reconvene into Regular Meeting

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 during this item.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Tax Public Hearing No. 1 held on August 27, 2019, Regular Meeting held on August 27, 2019, and Tax Public Hearing No. 2 held on September 3, 2019.
3. Consideration and possible action regarding casting the vote for Paul Virgadamo to serve on the 9-1-1 Board of Managers Appointment for the term of October 1, 2019 – September 30, 2021.

Jon Bickford asked about Item 2 and whether Mr. Virgadamo was the only candidate for that position. Mr. Tramm said Mr. Virgadamo was the only person nominated for that position and he currently serves in that capacity.

Jon Bickford moved to approve the Consent Agenda as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

4. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS ADOPTING AN OPERATING BUDGET FOR FISCAL YEAR 2019-2020.

“This budget will raise more revenue from property taxes than last year’s budget by an amount of \$72,975, which is a 7.19 percent increase from last year’s budget. The property tax revenue to be raised from new property added to the tax roll this year is \$62,185.”

Mr. Tramm advised this would be the same information as was stated during the Public Hearing.

John Champagne moved to approve the Ordinance adopting the Proposed Budget for Fiscal Year 2019-2020 as presented. Tom Cronin seconded the motion.

Discussion: Rebecca Huss stated to be clear the revenues were proposed at \$4.085 million dollars and the expenses are \$4.196 million dollars for a net negative budget of \$110,000 dollars. John Champagne stated there was a transfer included in the budget. Rebecca Huss said the transfer in would make a net income of zero dollars.

The motion carried unanimously. (5-0)

Jon Bickford	City Council Place # 1 - Aye
John Champagne, Jr.	City Council Place # 2 - Aye
T.J. Wilkerson	City Council Place # 3 - Aye
Rebecca Huss	City Council Place # 4 - Aye
Tom Cronin	City Council Place # 5 - Aye

5. Consideration and possible action to set by Order the 2019 Ad Valorem Tax Rate for Maintenance and Operations, \$0.2112/\$100.

Jon Bickford moved to set by Order the 2019 Ad Valorem Tax Rate for Maintenance and Operations at \$0.2112/\$100. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action to set by Order the 2019 Ad Valorem Tax Rate for Debt Service, \$0.1888/\$100.

Rebecca Huss moved to set by Order the 2019 Ad Valorem Tax Rate for Debt Service, \$0.1888/\$100. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, SETTING THE AD VALOREM TAX RATE OF THE CITY OF MONTGOMERY, FOR THE YEAR 2019 AT A RATE OF \$0.4000 PER ONE HUNDRED DOLLARS (\$100.00) VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY AS OF JANUARY 1, 2019 SPECIFYING SEPARATE COMPONENTS OF SUCH RATE FOR OPERATIONS AND MAINTENANCE AND FOR DEBT SERVICE; LEVYING AN AD VALOREM TAX FOR THE YEAR 2019 PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION AND ORDAINING OTHER RELATED MATTERS.

Rebecca Huss said this is the item that they must use the specific wording as provided by the Montgomery County Tax Assessor/Collector Tammy McRae. Mr. Tramm said that was provided in the letter from Ms. McRae.

Rebecca Huss moved that the property tax rate be increased by the adoption of a tax rate of \$0.4000/\$100, which is effectively a 1.42 percent increase in the tax rate. Jon Bickford seconded the motion.

Discussion: John Champagne asked about the statement which names a 1.42 percent increase in the tax rate and asked if that would be better said in the tax revenue because the rate has not changed. Mr. Tramm said he agreed and said they discussed that information with the Tax Assessor's Office, but the language here is specifically specified by law. Mr. Tramm said the City is not changing the tax rate from last year and it was \$0.4000 and will remain at \$0.4000. John Champagne said he rests his case and he feels better. John Champagne said it is double talk. Rebecca Huss said the City did not raise one percent, they raised 7.1 percent, so she is not sure where that number comes from. Mr. Tramm said this is the portion that is from the existing properties that have increased in value, but not the new property, which is why he previously specified that information.

The motion carried unanimously 5-0 as follows:

Jon Bickford City Council Place # 1 - Aye

John Champagne, Jr. City Council Place # 2 - Aye

T.J. Wilkerson	City Council Place # 3 - Aye
Rebecca Huss	City Council Place # 4 - Aye
Tom Cronin	City Council Place # 5 – Aye

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING SECTION 98-29 OF THE CITY CODE OF ORDINANCES, BY APPOINTING THE CITY COUNCIL TO SERVE AS THE CITY ZONING BOARD OF ADJUSTMENT TO MAKE SPECIAL EXCEPTIONS TO THE TERMS OF THE CITY ZONING ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A TEXAS OPEN MEETING ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

Mr. Tramm stated this item has been previously discussed and advised the Board of Adjustment effectively has the authority to provide exception to ordinances that City Council has passed. Mr. Tramm advised there has been some discussion that City Council might want to take over this responsibility on themselves and this is an ordinance to that effect.

Jon Bickford said given the past circumstance that they had, which they can't discuss because it was an Executive Session item, if they have a case where an independent appointed, not elected, board independent from City Council could make a decision that could impact the finances of the City negatively. Jon Bickford said they must have checks and balances by City Council.

Rebecca Huss said they are different from all the other Boards; the decisions of the Board of Adjustment are not repealable or approved by City Council. John Champagne said they are not reviewable by City Council. Rebecca Huss said all the other Boards decisions go through City Council one way or the other. Jon Bickford said the City was almost put in a very expensive situation that City Council could have easily resolved themselves and had no issue with, yet City Council had no authority to do so. Jon Bickford said knowing the way City Council has traditionally acted and has been responsible for the last eight years that he has been on City Council, to him, it would make sense to pull this in, so they do not get into another

situation again. John Champagne said he felt it was in the best interest of the community that the diverse opinion City Council brings to every decision reflects more of the community, as opposed to a Board that might have an ax to grind or may not have a perspective as wide and varied as City Council, which is why he would support this action.

Rebecca Huss asked if since most of the issues deal with Planning and Zoning type of decisions and the Planning and Zoning decisions are reviewable by City Council, is this something that could somehow be diverted to the Planning and Zoning Commission. Rebecca Huss said she feels the main issue is City Council has lost the ability to take on ultimate responsibility for the costs of decisions that are made.

Mr. Foerster said the statute which is found in Chapter 211 of the Texas Local Government Code provides that a City Council can create a Board of Adjustment and it provides for the number on the Board, and for alternates, and under subparagraph (g) that if the City Council chooses, it can appoint itself as the Board of Adjustment. Mr. Foerster said the question that City Council has, which is not addressed in the Zoning Code, is whether they would want the Planning and Zoning Commission to have that authority. Mr. Foerster said he could not think of any reason why City Council could not give that authority should they wish to. Rebecca Huss asked why the Planning and Zoning Commission can't answer the question of whether a flagpole could be 130 feet tall, and then have it go to City Council as the normal course, why does it have to be a Board of Adjustment question. Mr. Foerster said under the statute it provides the appeal by any ruling by the Board of Adjustment and can only be in District Court, so they still have the same problem which was addressed before. Rebecca Huss said her question was why there are items that go to the Board of Adjustment which seem like they are Planning and Zoning type questions. Jon Bickford said what started all of this was whether they could move the Board of Adjustment responsibility to the Planning and Zoning Commission and the answer is they could do that, but would they also be granted the same authority as the old Board of Adjustment had. Mr. Foerster said the statute specifically states that authority. Rebecca Huss asked how they get rid of the need for the Board of Adjustment to answer questions that seem to be a Planning and Zoning Commission type of issue.

John Champagne said he would suggest as the governing body of the City, they delegate that the Planning and Zoning Commission review the matter, then City Council can take their

suggestions under advisement and City Council would make the final decision. Mr. Foerster said he thought City Council could do that, but they would not delegate the authority, the Commission would just be reviewing the information. Jon Bickford said the Planning and Zoning Commission would give their opinion to the Board of Adjustment. Rebecca Huss said she thought that would be perfect, because that would get more opinions from the body that spends the most time thinking about Planning and Zoning. Jon Bickford said the Board of Adjustment is to look outside of the ordinances, which is not what the Planning and Zoning Commission does.

Mr. Foerster said subparagraph (c) of the current Code of Ordinances, 98-29, references the alternate members of the Board of Adjustment so he had deleted that section, but it might be a good place to put some language that would state “the City Council, at its discretion may refer this to the Planning and Zoning Commission.” Rebecca Huss said that would mean they are giving them the authority, and what they are asking for is advice, and the ultimate questions would be answered by City Council which is what she thought was being expressed. Rebecca Huss said if they put that into the ordinance, it will make it sound as if they are giving the final decision to the Planning and Zoning Commission. Mr. Foerster said he was saying City Council could refer the item to the Planning and Zoning Commission for recommendations. Jon Bickford asked why they would need to put that into the ordinance. Mr. Foerster said they did not have to do that, but mentioned that now with the new state law, they have a 30-day window to approve plans and site plans, etc., so if they are going to refer something to the Planning and Zoning Commission, it might slow the process down. Rebecca Huss said the first Council Meeting of the month would be fine, but the second meeting might be a problem. Jon Bickford asked how many Board of Adjustment issues they had in 2018. Rebecca Huss said there were four or five issues.

Jon Bickford asked if it would be wise to conduct a public hearing to see if the public has any input on this matter. Jon Bickford said he would be interested in what the public has to say about them getting rid of the Board of Adjustment and pulling it into City Council. John Champagne said he felt like they were streamlining the process. Jon Bickford said he did too. Rebecca Huss said the only people that ever attended any of the meetings were people being directly heard and the Planning and Zoning Commission.

John Champagne asked to confirm if they added what Mr. Foerster has suggested to the ordinance to standardize the process, did Mr. Foerster see any problems with transferring authority of the Board of Adjustment to the Planning and Zoning Commission. Mr. Foerster said no, if they are just asking for input from the Planning and Zoning Commission. John Champagne said that was all they were asking from them. Mr. Foerster said they could do that whether they have it in the ordinance or not, City Council always has the authority to do that. John Champagne said the only reason he is bringing this up is because City Council has said there is a danger of transferring authority if they put it in the ordinance and said he did not feel that was the case, but he was asking legal counsel and he is saying there is no danger so he would suggest they standardize that the Planning and Zoning Commission looks at them all and City Council makes the decision. Mr. Foerster said the ordinance would be worded “at the discretion of City Council.”

Mr. Foerster said City Council has the option of voting on the ordinance with the wording to state “at the discretion of the City Council, the Board of Adjustment, the matter can be referred to the Planning and Zoning Commission for their recommendation.”

Rebecca Huss moved to adopt the ordinance as previously read with the amendment that item “c” be inserted to state the Planning and Zoning Commission may be consulted at City Council’s discretion. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding acceptance of bids and award of contract for the Water and Drainage Improvements on Dr. Martin Luther King, Jr. Drive – Phase II.

Mr. Roznovsky advised they had received four bids on September 4, 2019 ranging from \$89,000 to \$204,000. Mr. Roznovsky said the low bidder was MMG Contractors who is the same contractor who will be completing Phase I, so his recommendation is the City Council award the contract to MMG Contractors based on their low base bid of \$89,000.

Jon Bickford asked if Mr. Roznovsky was comfortable with the performance of MMG and capability. Mr. Roznovsky said yes, they have worked with this contractor a lot and they are

a good contractor. Mr. Roznovsky said it was extremely beneficial that they are completing Phase I and it is the same contractor and group completing Phase II.

John Champagne asked what a 1295 Form was. Mr. Roznovsky advised it was a conflict of interest disclosure. John Champagne asked if MMG was the only contractor that submitted the form. Mr. Roznovsky said that was correct.

Mayor Countryman asked if Mr. Roznovsky had any hesitation whatsoever. Mr. Roznovsky said he did not and said even if MMG had not been the low bidder, he would still recommend them based on the continuity between contractors and their experience with them, and that they are a good contractor to work with. Mayor Countryman asked what their timeframe would be for the project to be completed. Mr. Roznovsky said the plan for Phase I is they are going to have a preconstruction meeting this week and they are waiting for the check and bonds to come in this week. Mr. Roznovsky said they are working on the contracts and when they are prepared, they will be signed by the City. Mr. Roznovsky said Phase I is 60 days to completion and Phase II is a 30-day contract with some overlap between the two contracts. Mayor Countryman said that would be a total of 90-days outside of all the contracts being executed. Mr. Roznovsky said it would be 90-days after the contracts are signed. Mayor Countryman asked if they would be done by January 1, 2020. Mr. Roznovsky said the goal is to be done in November 2019. Mayor Countryman said she just wanted to make sure they got all the answers because before they accepted the contractors at face value, they want to make sure they are worth the amount seen here and they will get the job done in a timely manner because it is time to get it done.

T.J. Wilkerson asked if they would complete Phase II first. Mr. Roznovsky said they would finish Phase I and then continue to Phase II. Mr. Roznovsky said if the clearance with the grant goes fine, which they are already cleared for Phase I, then they should be able to continue working on Phase II and finish them both at the same time. Mr. Roznovsky said there should not be any delay between the two Phases. T.J. Wilkerson asked if they will have to redo the beginning of MLK. Mr. Roznovsky said they hope the restart will be next week because their crews are ready to go. Mayor Countryman asked if this was a local company. Mr. Roznovsky said they are out of Houston.

T.J. Wilkerson asked when they plan on having the community meeting for the residents to let them know about the work that will be done on their street. Mr. Roznovsky said they will do a doorhanger first to let everyone know the timeline since the contract for Phase I just got signed last week, and then they can schedule a Town Hall Meeting to update everyone on what is going on. Mayor Countryman asked where the Town Hall Meeting would be held. Mr. Roznovsky said they have discussed having the meeting at one of the area churches.

Tom Cronin asked to confirm that Mr. Roznovsky had a history with MMG and they have never had any issues with them. Mr. Roznovsky said that was correct and said they have been a good contractor which they would recommend. T.J. Wilkerson asked if the contract was signed this week when he goes to church on Sunday, when can he say they will they start working. Mr. Roznovsky said he will know more this week. Mr. Roznovsky said if MMG can have their bonds in this week, which as of yesterday they were still waiting on the bonding company to send them back in paper form so they can be reviewed, they should be able to start next week, but they will know more tomorrow.

Rebecca Huss asked if they were approving the base bid and alternate. Mr. Roznovsky said it was just the base bid.

Rebecca Huss moved to approve MMG Contractors LLC for a base bid price of \$89,317.89. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

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.

10. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:

- a) 551.074 (personnel matters) concerning City Administrator Review at conclusion of probationary period;
- b) 551.071 (consultation with city attorney) concerning pending claims and other confidential attorney-client privileged matters; and
- c) 551.087 (deliberation regarding economic development negotiations) regarding Town Creek Crossing.

Mayor Countryman adjourned into Executive Session at 6:38 p.m.

11. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 8:13 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

12. Consideration and possible action if necessary, on matter(s) deliberated in Closed Executive Session.

There was no action taken.

COUNCIL INQUIRY:

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

There were no inquiries.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 8:13 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Submitted by:

Susan Hensley

Susan Hensley, City Secretary

Date Approved:

09/24/19

Sara Countryman

Mayor Sara Countryman

