

MINUTES OF PUBLIC HEARING and REGULAR MEETING

September 24, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:05 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent: John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3

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

INVOCATION

Jon Bickford gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

Mr. Bert "Rusty" Herridge, said he came because many times people that serve the community are always getting complaints and people never give any kind of praise for the good that you do. Mr. Herridge said you serve our City because you care. Mr. Herridge said he and his wife Marsha had an incident happen on May 4, 2019, that was a very unfortunate thing, they had friends come in from Bryan and they were attending the Antique Festival with them. Mr. Herridge said his wife suffered a fall in front of the Community Center at about 3:30 p.m. and the ordeal got worse as she was transported due to her blood pressure getting down very low. Mr. Herridge said since his wife had suffered a couple of strokes in the last five years, the ordeal went on and on and after five hours his wife had a CAT scan and she was released at 9 p.m., so it was a long day. Mr. Herridge said they have good health insurance, and they are both retired school teachers from Montgomery, so he was expecting some out of pocket expenses and he did not know how much or what it would be, but he decided he would contact our City and let them know they had suffered an incident that they did not want anybody else to be involved in. Mr. Herridge said when you have festivals, you have folks walking around and they could trip and fall. Mr. Herridge said his wife has some stitches, she was released and eventually fine and they are blessed and thankful for her recovery. Mr. Herridge said he contacted the City and asked if they would be willing to help with any overage that might occur with out of pocket expenses. Mr. Herridge said he was not wanting to sue anyone, and he does not believe in lawsuits. Mr. Herridge said the City said to make sure and take care of all the bills and get them to the City and the City will help. Mr. Herridge said he was here tonight to thank the City for working with them and the representative for the City's health insurance company, and for fixing the parking lot. Mr. Herridge said they were here as citizens that moved to Montgomery in 1983 when there were 350 children in the high school, and he was one of the junior high coaches; they raised three boys here and Montgomery is their home. Mr. Herridge said they grew up around Eastland, Texas near Abilene, stating they have been here so long, this is really their home. Mr. Herridge said they wanted to thank the City for all they do.

Mr. Randy Burleigh advised he was here representing the Buffalo Springs HOA Board, stating the other members wanted to be here, but they had other duties. Mr. Burleigh said they have been having a lot of power failure recently, stating that not all of Montgomery sees the power failures the north side of town does. Mr. Burleigh said the switch is right in front of the Community Center and when it goes down the north side, most of downtown SH 105 has power. Mr. Burleigh said the residents, businesses, restaurants, schools and the City's major Water Treatment Plant and sewer lift stations go down, so it is a big issue. Mr. Burleigh said the data for the last 15 months shows they have lost power seven

times. Mr. Burleigh said starting in June this year, they have lost power every month, and some of the times are eight to nine hours in duration. Mr. Burleigh said they need some relief and they are asking the City to form a committee or a group that would get with Entergy to discuss looking at maintenance of the system. Mr. Burleigh said in town there are probably issues with poles and transformers being old and rusted out, and possibly look at adding a switch where they could keep more people with power if they lost power. Mr. Burleigh said they would like to work with the City and if they need more ammunition, he could get the School District and businesses to come to the City.

Mayor Countryman said this was not a forum to talk back and forth, but she did want to let Mr. Burleigh know that she did talk to our City Administrator about this issue on Monday. Mayor Countryman said she knew the public inflicted damage were wrecks and those poles have subsequently been moved further off the road. Mayor Countryman said the City Administrator is working diligently to get with Entergy to have them come out and look at all the lines and clear everything, and to look at the old equipment that needs to be replaced and updated. Mr. Tramm stated that he knew they were going to be talking about other topics soon so they can discuss this topic as well.

Mr. Mark Ferraz, a City resident, advised he had received a couple of notifications regarding the business development that is proposed to go in on Clepper Street. Mr. Ferraz said he was asking City Council, as the governing body, to consider caution when rezoning property that close to the Historic District because he is aware of some of the initiatives the City is undergoing right now regarding the redevelopment and planning of the downtown area. Mr. Ferraz said his concern is about setting a precedent, where they can just move residential property to commercial zoning, especially in conjunction with the analysis around business risk as opposed to encouraging new commercial development. Mr. Ferraz said there is a good case where they need some hotel and motel accommodations, but there is also the question of what happens if that fails and does not work, then that property that strips right into a giant block of residential property is now zoned commercial and can be used commercially by any other business. Mr. Ferraz said that is some of the long term concerns they have about the property, but said they trust City Council's judgement and just asked them to be thoughtful of the fact as it relates to the proposal.

PRESENTATION:

1. Presentation of Plaque of Appreciation to outgoing City Administrator Jack Yates for his years of service and dedication to the City of Montgomery.

Mayor Countryman presented the plaque to Mr. Yates on behalf of the City of Montgomery and City Council, regarding his dedication to the City and years of service. Mayor Countryman read the plaque into the record as follows: "Presented to Jack Yates in recognition of your years of dedication and services as the City Administrator from March 1, 2014 – September 30, 2019. Your diligence and efforts to improve the quality of City services for residents and to promote growth and development in the City will always be remembered by the City of Montgomery. Presented by the Mayor and Members of City Council on September 24, 2019." Mayor Countryman advised Mr. Yates he had done a great job for the City.

Mr. Yates expressed his thanks to City Council, staff and to the people of the City. Mr. Yates said everybody treated him very well and he appreciated that very much.

INFORMAL – PUBLIC HEARING

2. City Council will conduct an informal Public Hearing for the purpose of giving all interested persons the right to appear and be heard regarding a possible future rezoning for a proposed hotel/motel type project requesting to be located at 1062 Clepper Street, Montgomery, as submitted by Larry Jacobs.

Mayor Countryman convened the informal Public Hearing at 6:21 p.m.

Mr. Larry Jacobs advised he wanted to address some of the concerns mentioned. Mr. Jacobs said he has been in the City 20 years and they grew up in Montgomery County and they intend on being here a lot longer. Mr. Jacobs said they have been sort of on hold since they held their previous hearings and said the City has 25-foot set back lines and they are talking about at least a 25-foot vegetation line that they are not going to touch. Mr. Jacobs said all their detention, which won't be much, will run off into the corner next to Jim's Hardware parking lot, where there is a berm. Mr. Jacobs said if anything, he thought they might improve the drainage. Mr. Jacobs said the fronts of the cabins will face the street.

Mr. Jacobs said one of the things they have discussed is if they should go bust. Mr. Jacobs said he has told City Council this is the family retirement fund. Mr. Jacobs said one of the

options they could do is with a Special Use Permit. Mr. Jacobs said with the Special Use Permit he can't just say he is closing this place and opening a grocery store, his use is limited. Mr. Jacobs said the buildings they are wanting will be built on blocks, so if they fail, they can sell them. Mr. Jacobs said they do have an exit strategy to protect the neighborhood. Mr. Jacobs said they are going to preserve the trees as much as they can.

Mr. Ferraz said there was some clearing done behind his property that was done last week and did not know if it was related to this project. Mr. Ferraz said if the brush areas remain intact, he thinks that would probably be good. Mayor Countryman asked Mr. Jacobs to get with Mr. Ferraz to discuss the information.

Jon Bickford said he wanted to make sure there were no other citizens that wanted to make comments. Mr. Jacobs said he did talk to the Lobojacky's, McCowan's and the Brosch residences. Mr. Ferraz said he liked the spirit of the project; he was just worried about turning those plats one at a time.

Adjourn Informal Public Hearing

Mayor Countryman adjourned the informal Public Hearing at 6:25 p.m.

Reconvene into Regular Meeting

Mayor Countryman reconvened into the Regular Meeting at 6:25 p.m.

CONSENT AGENDA:

City Council elected to vote on the Consent Agenda items individually.

3. Matters related to the approval of minutes of the Public Hearing and Regular Meeting held on September 10, 2019.

Tom Cronin moved to approve the minutes of the Public Hearing and Regular Meeting held on September 10, 2019. Rebecca Huss seconded the motion, the motion carried unanimously.
(3-0)

4. Consideration and possible action regarding approval of an Alcohol Beverage Permit Application for H-Wines Winery to be located at 14343 Liberty Street, Montgomery, as submitted by Domaine des Hospitalieres, LLC.

Jon Bickford moved to approve the Alcohol Beverage Permit Application for H-Wines Winery to be located at 14343 Liberty Street, Montgomery, as submitted by Domaine des Hospitalieres, LLC. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

5. Consideration and possible action regarding a road closure request from Bears Etc. for OctoBEARfest to be held on October 12, 2019.

Jon Bickford asked if the City had checked with the business owners there to make sure they are good with the road closure. Jon Bickford said there is also a new barbeque opening up at the corner of College and McCown, stating he did not know if they were planning on being open on Saturdays or not, but this could cut off his Saturday business, or anyone else that might be back in there. Jon Bickford said he thought this is a great idea and it is a great event, but he did not want to take away from their business without them knowing about it. Jon Bickford said he thought they did this before for the Wine or Antique Festival, where they check with the businesses and make sure they are okay with the closure. Rebecca Huss said they talked about it for the Whitley Winery event.

Jon Bickford said he would move to table until they have a chance to talk to the businesses. Rebecca Huss said she thought it would be difficult to table it given the timing of the next meeting versus the timing of the festival, so they could approve pending verification of approval by the businesses. Jon Bickford said he would be okay with that if they had confirmation from the local business owners that they are okay with the arrangement. Mr. Tramm said pending City Council approval of this, with that restriction, he will make sure they get with the business owners that are in the affected area.

Jon Bickford moved to accept the road closure request, pending confirmation from the businesses that are on or about that road, being unanimously supportive of the event because there could be some people that are closed on that day.

Tom Cronin said that Whitley Winery was generally closed on Saturday and the barbeque restaurant was open last Saturday, that one might be affected, but if he had a barbeque restaurant, he would think it would benefit them. Jon Bickford said that would be their choice. Tom Cronin said he appreciated Jon Bickford looking out for the local business owners.

Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

6. Consideration and possible action regarding approval of a parking lot lease extension number 5 with Consolidated Communications of Texas Company.

Mr. Tramm recommended approval of the fifth renewal of the parking lot lease extension with Consolidated Communications that goes back to 1994.

Jon Bickford moved to approve the parking lot lease extension number 5 with Consolidated Communications of Texas Company. Rebecca Huss seconded the motion.

Discussion: Tom Cronin asked Mr. Tramm about the map and asked if Consolidated owns the parking behind the hair salon and asked if that was correct. Mr. Tramm said Mr. McCorquodale pulled that information from Montgomery County Appraisal District. Tom Cronin said he was surprised since he thought they only owned the property directly behind their building. Mr. Tramm said in the agreement it does say the property goes to the south.

The motion carried unanimously. (3-0)

7. Consideration and possible action regarding approval of the Montgomery Economic Development Corporation Budget for Fiscal Year 2019-2020.

Rebecca Huss moved to approve the Montgomery Economic Development Corporation Budget for Fiscal Year 2019-2020, as presented. Jon Bickford seconded the motion.

Discussion: Jon Bickford said as a key point the MEDC did put in \$76,000 for streets and sidewalks this year and another \$50,000 for utility extensions, which is about an \$11,000 increase and they are headed in the right direction.

The motion carried unanimously. (3-0)

8. Consideration and possible action regarding a road closure for Montgomery Police Department National Night Out.

Rebecca Huss stated this would be on the west side of the Park.

Jon Bickford moved to approve the street closure request for National Night Out on October 1, 2019, from Shephard to Eva to Caroline from 5:45 p.m. to 9:00 p.m. Tom Cronin seconded the motion.

Discussion: Rebecca Huss said as a note, all the houses along this street are rear loading so people can still get in and out of their houses and travel down Caroline Street.

The motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

9. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Tramm presented his report to City Council. Mr. Tramm said with Tropical Storm Imelda that came through, the City was hit much less than a lot of other parts of the County. Mr. Tramm said staff was really struck by how close much of the drastic flooding was and yet only around two inches of rain fell in the City. Mr. Tramm said this is an example of how you prepare for such storms and you never take them for granted.

Mr. Tramm said he had spoken to Mr. Mack Woodward, with the Sam Houston Memorial Museum, regarding the Crane Cabin repair and said they will be able to work with the contractor they have identified at a substantially reduced cost. Mr. Tramm said it will not be quite as much of a discount as they had previously thought because there are some insurance requirements they must deduct, but it will still be half the cost of what they had previously thought. Mr. Tramm said one additional benefit with this contractor is, they were going to have to wait until January or February with the previous contractor, but with this contractor, they will be moving forward in the next

couple of weeks. Rebecca Huss asked if the MEDC would get their money back. Mr. Tramm said he would expect whatever is left should go back to the MEDC.

T.J. Wilkerson arrived at 6:40 p.m.

Tom Cronin asked if Sam Houston was sharing with the cost or just recommending a qualified vendor. Mr. Tramm said they are not sharing in the costs, but in this case, they provided the vendor that is saving approximately \$10,000. Mr. Tramm said the City appreciates the help they have provided, which included someone coming out and evaluating the cabin in person. Mr. Tramm said the contractor they will be utilizing has worked on their structures. Tom Cronin said it is probably late, but since this is a historic building is there grant money available for this project because he knows historically it takes forever to get grant money. Mr. Tramm said maybe in the future they might be looking for that. Rebecca Huss said the Fernland Board has stated that you can sometimes get grant money, but you usually pay for the repairs and then apply for the grant money. Mr. Tramm said there may still be the opportunity to do that. Tom Cronin said that was good because Dr. Matt Fuller offered to do the grant for free and stated that he had done multiple grants representing millions of dollars. Mr. Tramm said he will follow up with Dr. Fuller.

Mr. Tramm advised that work has resumed on the Community Development Block Grant (CDBG) Project in the Baja/MLK area. Mr. Tramm said the Wine and Music Festival was this last weekend and he will be meeting with The Chamber in a week and a half for their after-action Emergency Action Report to see how the Emergency Action Plan came together. Mr. Tramm said The Chamber did work to significantly upgrade emergency plans they had in the past, which is something the City is looking to do from a Police Department and City perspective for all events going forward. Mr. Tramm said they are all aware of things that have occurred all over the country and they want to make sure the citizens and visitors to Montgomery are as safe as possible while attending events.

Mr. Tramm said last month there was a question about a historic bridge the City is looking at acquiring, and it was his understanding that it would be on Commissioner's

Court for them to consider earlier today, but when they reviewed the agenda on Friday it was not on the agenda, so they are keeping their eyes out for the item and they will be reaching out to the Commissioner's office to make sure they keep up with the information. Jon Bickford asked if the City made the decision that they wanted to pursue getting that bridge for a future park location and asked who made that decision, because he did not know if it ever came before City Council to see if they wanted the bridge, nor did he know where the bridge would go. Mr. Tramm said that was the information he had from the previous City Administrator that he took, so if he is jumping the gun, he needs to know that. Jon Bickford said before they get into another situation with something they got for free, they need to find out what they are going to get and what they are going to do with it, and how much it is going to cost to put it back together again and who is going to maintain the bridge and what the City gets out of it. Jon Bickford said if he understands it correctly, this is a railway bridge so he does not know what the City is going to do with that just yet, but he would really like to understand everything before they commit ourselves and before they say the City has made a decision to move this bridge here, they need to understand what it means to move the bridge here. Mr. Tramm said he would do some more background on the information and then he will be prepared to discuss the matter in better detail.

Mr. Tramm said as the City's fiscal year ends, they are starting to communicate with the auditing firm so they can be prepared to pick that up after the fiscal year ends. Mr. Tramm said they handle a lot of the information via electronic transmissions.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy advised they replaced a 2-inch gate valve at the end of Terra Vista, installed a new 2-inch master meter for the Cedar Crest Community, completed four work orders for in-point maintenance, four work orders for water leaks and three work orders for water taps. Mr. Muckleroy said on the wastewater side they installed wooden pickets on the gate to Lift Station 4, for appearances, extended a couple of buried manholes, one in front of the Fire Department and one in front of Spirit of Texas Bank, continued pumping the manhole in Terra Vista, completed two work orders for sewer taps and had no sewer stoppages for the month. Mr. Muckleroy said on the street and drainage side, they had catch basins in Terra Vista repaired by a

contractor, repaired sidewalks and asphalt from previous water leaks on Caroline Street, trimmed low hanging limbs throughout the City and the contractor for the Buffalo Springs Bridge made some pot hole repairs.

Mr. Muckleroy reported on the building facility maintenance side stating they coordinated the painting for City Hall with a contractor, delivered barricades for the Whitley Vineyards event, replaced the flags at City Hall and completed 21 work orders for general City Hall maintenance issues. Mr. Muckleroy said for Parks and Recreation they had several repairs of the Memory Park irrigation system, set up and clean up from the Flag Festival, replaced dead trees at Homecoming Park and Cedar Brake Park, stained the foot bridge at Cedar Brake Park and installed the kiddy cushion in playground equipment areas. Mr. Muckleroy said they completed 35 work orders for park maintenance issues, the docents reported 336 visitors and they provided 28 tours for the month, with 300-500 visitors during the Flag Festival and they provided 25-50 tours on that day. Mayor Countryman said overall the month looks light from the visitor's standpoint, but when they count the Flag Festival it was a busy month.

Mr. Muckleroy advised he attended a walk-through of the Villas of Mia Lago, Section 2, attended a monthly meeting with the Fernland docents, met with the Sam Houston representative at Fernland, looked at the Crane Cabin and attended the budget workshop and met with the TML safety coordinator to discuss future safety training opportunities. Mr. Muckleroy advised one of his crew had attended a chlorinator maintenance class in Conroe.

Rebecca Huss said she noticed in the last couple of months there have been a lot of work orders for City Hall and asked if the building needed repairs. Mr. Muckleroy advised the work orders are for anything requested at City Hall, which could be several things and said he could get a detailed list if needed. Rebecca Huss said she might ask for that.

Jon Bickford asked where they were with finishing the smoke testing. Mr. Muckleroy said they were not finished, but with the lack of rain, it got pushed to the back burner. Mr. Muckleroy said with the new budget year and having more money for maintenance,

he is going to push that off to a contractor to try and get it completed in the new budget year. Jon Bickford asked if they had bids for quotes out yet. Mr. Muckleroy said they did not have that done yet, and said they were going to talk to our utility contractor first. Jon Bickford asked if they could get some estimates from other people and see what they can come up with because they need to get that project done so they can get the leak fixed. Jon Bickford thanked Mr. Muckleroy for supporting all the activities.

- C. Police Department Report – Police Chief Anthony Solomon presented his report to City Council. Chief Solomon reported on the initiative they have been doing on Bessie Price and MLK, stating the numbers have gone down at those locations and they would like to think they have gone done with them being in those areas and having the radar trailer there. Chief Solomon said when the radar trailer is not there, they have an actual officer in that area and people have actually slowed down and they will be doing this in other areas of the City.

Chief Solomon said the City Administrator talked about the events and activities that have been going on around the City and how they are trying to change how people look at the security and what they need during the events. Chief Solomon said they had an event on Saturday night and they had an EMS tent at the location where they ended up taking care of about four people. Chief Solomon said security wise the Department was there, and they reviewed the situation and they will be attending a debriefing sometime on October 3, 2019, to go over what they saw and how they can improve the security. Chief Solomon said they are also working with the Christmas Parade and are looking into changing the route of the Parade, which they think the new route is pretty good. Chief Solomon said the new route will keep the Parade from going through the neighborhoods. Rebecca Huss asked what the main goal was for the change in route. Chief Solomon said the main goal for the change was to keep from bottlenecking the parade and he has never seen a parade go through the neighborhood so they are rerouting the Parade and it should be fine. Chief Solomon said they will need more manpower for the Parade, so they are adding the Montgomery ISD Police to help with the Parade.

Jon Bickford asked how the Department was doing. Chief Solomon said they were doing great.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett stated during the month of August they had 233 citations collected with the total amount of \$3,020.15. Mrs. Duckett said the Warrants Officer collected 9,984 warrants. Mrs. Duckett said the night Police Officers have done very well processing warrants and said they do a great job. Mayor Countryman said two months ago the Court had the same amount of warrants and they collected \$10,000 less. Mrs. Duckett said you really can't pinpoint the amount the citations bring in, stating the warrants go up and down, and the amount is based on the actual warrants being served. Mrs. Duckett said they hope the people that are served come in and pay their warrants once they are released from jail, but sometimes they don't, and they go back into the FTA rotation. Mrs. Duckett said the Warrant Officer does serve the people in jail and once they are released, they are supposed to come in and take care of their warrants by either setting a court date or request time served, but sometimes it does not go as planned and they get back into the system. Mrs. Duckett said it is not just money, it is physical labor and trying to get the warrants worked.
- E. Utility/Development Report – Mr. Tramm presented the report to City Council. Mr. Tramm advised last month he had discussed the 60- and 90-day arrears numbers and said the billing office is putting the changes discussed into effect. Mr. Tramm said when they have customers who just move out and cease their utility service, most come in and close out the account, but there are some times when people just leave. Mr. Tramm said in the past the accounts have carried on for several months with additional fees occurring with no one there and they make it to the 60-90-day category. Mr. Tramm said next month if there is no activity at the location, they will be closing out the account and someone will verify that no one is there. Mr. Tramm said there have been some cases where the account has been let go on for the 60-90-day range and then someone moves in and they see the water is on, so they just start using the water. Mr. Tramm said most people would know to set up the account, but sometimes they don't and then they must get the bill sorted out, so it is easier to cut it off and start out fresh.

Mr. Tramm noted on page 3 of the report that the call log shows a large increase, advising that the City had a new telephone system put in and a lot of calls were getting routed to the front. Mr. Tramm said they had almost 2,200 calls for the month and it became like a switchboard. Mr. Tramm said the phone system has been corrected and that number will be coming down. Mr. Tramm said they won't get a true figure until October. Mr. Tramm said there was also a discussion of the Community Building rental related to non-profit usage and last month they had 19 rentals, 15 generated no revenue. Mr. Tramm said they have City personnel that clean the building and the City is losing money on the non-profit rentals. Mr. Tramm said working with City staff, he will be coming to City Council in the next two months to get a policy regarding that rental information.

Mr. Tramm said during the month of August Memory Park water usage was 91,000 gallons which is slightly down from 111,000 gallons from the previous month. Mr. Tramm said as Mr. Muckleroy reported, there had been some irrigation repairs completed and they have had enough rain to fill the Memory Park pond.

Rebecca Huss said this is the first month the City has had more than \$200,000 in utility revenues, which is a milestone for the City. Rebecca Huss said when she first started, they rarely had \$100,000 revenue in the summer, which has doubled in the last six years. Mr. Tramm said he would suspect with the way growth is occurring in the City, it won't be the last milestone you will see. Rebecca Huss said there has been a lot of usage. Mayor Countryman said she thought \$30,000 for permits was quite impressive and when she first became Mayor, they were in four digits.

Tom Cronin asked about Fernland, which went from 4,000 gallons to 15,000 gallons in July and August and asked if there was any reason for the increase. Mr. Muckleroy said they had redone the flower beds at Fernland, and they ran the sprinklers to get the plants established and now they have cut back on the watering.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams reviewed the district alerts, stating that on the 19th of July they had a low system pressure and when they went out, they found that

the wells were not coming on and they had to manually bypass the wells and get an electrician out for service. Mr. Williams said the electrician replaced the liquid level controller because they found the probes that had been listed as replaced had not been replaced, and they did not see any more issues at that time. Mr. Williams said the bottom three alerts were due to power failures.

Mr. Williams said the effluent trend showed 4.101 million gallons, the daily peak flow was August 17, 2019, at 181,000 gallons and the daily average flow was 132,300 gallons. Mr. Williams said the effluent monitoring report shows that all samples were within compliance for August, which they reported with a half inch of rain. Mayor Countryman said the report states the power failure was on August 15, 2019, but Mr. Burleigh's report shows August 18, 2019, and asked if he was sure that was the same incident. Mr. Williams said yes because when their operators go out to respond to alarms, the calls are time stamped and stated this report does not go through August 18, 2019, it ends on August 17, 2019. Jon Bickford said that was the wastewater treatment plant, which is on the other side of SH 105 so it might not have been affected by the power outage.

Mr. Williams said during the month they have continued to look for water leaks, stating that he has come out to help Public Works and they did identify an issue at the water plant where the off probes were not responding accurately every single time. Mr. Williams said they were not sure how often or how much the tank overflowed, but they did see evidence of overflow on the grounds and behind the plant where the water would dump. Mr. Williams said they proposed a change to the City to Public Works and they changed the probes out. Mr. Williams said they are not going to use probes anymore because what happens is, they corroded and then they would not catch good metal to tell the well when to shut off. Mr. Williams said they went in with a digital device that is based off pressure rather than shorting a probe out, so they are a lot more effective and reliable. Rebecca Huss asked when they found this problem. Mr. Williams said it was August 29, 2019, and August 30, 2019, it was repaired. Rebecca Huss said they have another half month of terrible losses. Mr. Williams said they still need to verify some of the billing. Rebecca Huss said if they lost \$10,000 - \$15,000 last month, and it is worse this month, that is another \$10,000 to \$15,000 plus another

half month, which is up to about \$40,000. Mr. Williams said that sounds about right, but the overflowing was not constant, it was intermittent because no one saw the overflow. Mr. Williams said typically if you have a bad probe it will be found within a day or two because the operator will get on site and it is still overflowing. Mr. Williams said in these instances when they arrived onsite, they would not see an overflow or any standing water. Rebecca Huss asked how they could not notice five million gallons of water on the ground. Mr. Williams said it was because it was not overflowing at a constant rate. Rebecca Huss said five million gallons on the ground would have to be a noticeable puddle. Jon Bickford asked how big around are the water tanks. Jon Bickford said it would take a lot of water to come over the top of that tank to get to five million gallons, and for nobody to see that, it had to have been left for a while. Jon Bickford said he did not know how far the water could get over the top of that tank before it spills over, there is a sheer that gets to a half inch tall before it breaks to the top. Mr. Williams said it will only overflow as much as the gallons per minute of the well produces. Jon Bickford asked how many gallons per minute will the well produce. Mr. Williams said Well 3 produces 650 gallons per minute and Well 4 is about 1,500 gallons per minute. Jon Bickford asked if they both feed into this tank. Mr. Williams said that is correct. Rebecca Huss asked if they have noticed elevated run times on those wells. Mr. Williams said they have noticed elevated run times on all water systems and said their first indication was a leak out in the system, and they came up dry on that, and so they started investigating the water plants. Mr. Williams said it was not like there was water sitting on the ground, but there is evidence of overflow, he noticed chlorine burn on the grass and then behind the water plant where the water dumps out into a field there was a puddle of water.

T.J. Wilkerson asked Mr. Williams to check on MLK Blvd. close to the mobile home on the right, with two water pipes sticking up because there is a ditch there that stays wet all the time. T.J. Wilkerson said the location was across from the bed and breakfast and asked them to check that location. Mr. Williams said he would check that location out.

Jon Bickford said if his math was correct, they lost five million gallons of water, which is a lot of overflow at 126,000 gallons of water an hour. Mr. Williams said the GST

high level probe was not working, which has been replaced with pressure sensing equipment, so they don't have to worry about the corrosion.

Rebecca Huss asked if Mr. Williams felt like he was off his game here. Mr. Williams said no. Rebecca Huss said there is a lot of equipment not working and a lot of people not noticing that five million gallons of water are missing. Mr. Williams said the timing of this with as dry as it was, the water was soaked up into the ground. Rebecca Huss said we sit on top of a clay cap so there is no water soaking into the ground quickly around here. Mr. Williams said he could only report what they found. Rebecca Huss said she knows, which also goes back to her original question of whether or not they were on top of their game because his guys are not either out here paying attention, equipment not working and this is the third month on non-accountability being an issue, and they are not taking it as seriously as the City is. Mr. Williams said they are taking it very seriously and he does not know why she would think they are not. Rebecca Huss said she is starting to feel like we need to light a fire here. Jon Bickford said there is a lot of water loss.

Mr. Muckleroy stated they were not saying that five million gallons went out into the ground, they know that was part of the problem, they do not know if that was the whole problem. Mr. Muckleroy said they are still confident that there is not a major leak in the system because the evidence of that would show quickly. Mr. Muckleroy said they did find a small leak, which was the blow off in Terra Vista. Mr. Muckleroy said today they started looking at the billing side of things to see if there is an issue with that, which is a legitimate possibility. Mr. Muckleroy said the water might not be lost, it might just be unaccounted for, they don't know, they are trying to explore every option.

Jon Bickford said as much and as precious of a resource as water is, and given the amount of revenue that it generates for the City, which is not trivial and the amount of expense it takes to get it out of the ground, it has got to be a priority to get to the bottom of it.

Mayor Countryman asked Mr. Williams if he had an action plan and what is it. Mr. Williams said they already initiated the action and the repairs at the plant have been

completed. Jon Bickford said they just found out they do not know if that is it or not. Mr. Williams said Mr. Muckleroy is meeting with the billing clerk to try and find out if there is an issue, he has been talking to Mr. Burleigh about some of the usage he is monitoring with Beacon, going through all the steps to make sure they are not giving away water. Mr. Williams said they are very carefully monitoring the operations of the flow as they found the issue at the plant. Mr. Williams said he has spoken to the guys in the field about being more thorough at the facility and making sure they are on top of their game because you never know when issues might happen. Mr. Williams said they are trying to mitigate any type of future issues.

Mr. Williams said they sourced a total this month of 17.46 million gallons, flushing a total of 1.598 million gallons, and they sold a total of 12.548 million gallons which brings them to an 81% accountability.

Mr. Williams said this month they had a total of return to the wastewater treatment plant of 33%.

Jon Bickford asked if they could imagine what might have happened between May and June or May and July that would cause something wrong with the billing to have occurred. Mr. Muckleroy said Gulf has nothing to do with the billing. Jon Bickford said they were at 95 and 96 percent accountability and they dropped down to 89 percent, then they go from 89 to 82 percent and 82 to 81. Jon Bickford said if they think there is something wrong with the billing, they would imagine then that something changed between that time, such as with the billing software or how they are billing or could it have occurred between May and July, where it dropped from 95 down to 82 percent, because that is a pretty big drop and you would expect if it were a billing issue that some process would have changed or somebody could have updated software that could have gotten mis figured or something. Mr. Muckleroy said at this point he did not have an answer. Jon Bickford said when something like this happens it usually means an outside force effected it. Jon Bickford said he would be thinking about that and what would cause something significant like this to occur. Rebecca Huss said residents have been complaining about high bills, so the obvious answer would be with a big user and if something happened to the upper level of the rate tier.

Mr. Muckleroy said he did not say they knew there was something wrong with the billing, it is an option that they are checking. Mr. Muckleroy said they found, on a fluke, that Spirit of Texas Bank had all three of their meters that had not been put into the system and they had not received a bill, and in the last two months, they had used a half a million gallons for irrigation. Mr. Muckleroy said the bill has been corrected and generated. Mr. Muckleroy said they are checking on the information to see if they can find anything else.

- G. Engineer's Report – Mr. Roznovsky, City Engineer, presented his report to City Council. Mr. Roznovsky said the City has received the check from the surety company for the Baja Road Project, which included \$14,000 in damage reimbursement. Mr. Roznovsky said the construction did begin so they had a preconstruction meeting and the contractor moved on site last week. Mr. Roznovsky said they ran into an issue yesterday when they hit a two-inch waterline that services the school. Mr. Roznovsky said they had an onsite meeting this afternoon with the owner and the foreman and crew. Mr. Roznovsky said they repaired the leak in 45 minutes, but they had closed valves on Baja Street, so Baja was out of water when they thought the valve was open. Mr. Roznovsky said they had a communication and language barrier, so they are having the supervisor on site more frequently, who does speak English, so that does not happen again. Mr. Roznovsky said they will be constructing the waterline tomorrow. Mr. Roznovsky said the contractor was very frustrated with himself about the incident, and he is sympathetic to what the residents have been through and it is something he does not want to repeat. Mr. Roznovsky said this should have been one hour to get the water back on that turned into a five hour down time. Mayor Countryman said or longer because she was getting texts at 6:30 p.m. last night and the water had been off since 11:00 a.m. Rebecca Huss said she heard there were elementary school students shouting, “give us our water back.” T.J. Wilkerson asked if they put out the door hangers. Mr. Roznovsky said they have not done that yet; they are getting the schedule for the Town Hall Meeting and once they have that they will put out the door hangers. Mr. Roznovsky said if they can't nail down the schedule by tomorrow, they will go ahead and put the door hangers out and send a second one. Mayor Countryman said she felt the door hangers were the most important thing because our residents are seeing work going on and they have not received any communication, so they are looking as

if they are not communicating with them. T.J. Wilkerson asked if they had a date in mind. Mr. Roznovsky said it was whenever the center is available and what works the best for the residents. T.J. Wilkerson said next Wednesday evening at 6 p.m. would be best. Mr. Roznovsky said they would get that scheduled and put the door hangers out tomorrow. Tom Cronin asked who was doing the door hangers. Mr. Roznovsky said they will have them prepared and either between them or Public Works they will get them put out. Jon Bickford said he hoped they were not paying Jones and Carter to hand door hangers. Mr. Roznovsky said they would give them to Public Works for distribution.

Mr. Roznovsky said they have received the contracts back from the contractor today for Phase II of the Baja Road project, which they will now review and get them confirmed with the State, then issue the Notice to Proceed. Mr. Roznovsky said they held a preconstruction meeting for Atkins Creek and the contractor is scheduled to move onsite next week or the following, with the lead time on the piles for the structure, so they should be manufactured pretty soon, which they will follow up to see if they were affected by the weather, but they should be moved onsite in the next week or so.

Mr. Roznovsky said concerning the downtown water improvements, last time there was a question regarding the Texas Historical Commission and said that came about because the site is on the register, so when the Water Development Board did their final clearance it popped up that this was nearby and it was submitted to them for approval. Mr. Roznovsky said it was not adding anything new to the register, it was already existing.

Mr. Roznovsky advised the Water Plant 3 improvements are being wrapped up and they will be scheduling a meeting with the TORQ Committee here in the next few weeks to review those plans. Mr. Roznovsky said Lift Station 1 replacement project had the Notice to Proceed issued on September 9, 2019, with the contractor still working through some submittals. Mr. Roznovsky said the contractor switched up a vendor that he did not say he was using on the bid for a sub, so once that is corrected, he should be able to move forward. Mr. Roznovsky said the contract provides that he has 30-days to demolish the existing Lift Station site and open it up for development,

which expires on October 9, 2019, so they are continuing to push on the contractor to get it completed. Mr. Roznovsky said there is a zero-dollar change order for the project, and the Water Development Board is very specific regarding contract language, so they had corrections to be made on pages 2 and 3. Mr. Roznovsky said the contractor has agreed to the changes.

Mr. Roznovsky said the 18-inch sewer extension project is finishing up and there is a Change Order on that one, which allows for additional bypass pumping time for the coordination between the two projects and for some pavement repair. Mr. Roznovsky said originally the developer was going to cut off the top of the manhole and pave over it and they decided not to do that. Mr. Roznovsky said this was all covered as far as the deposit and contingency factors.

Mr. Roznovsky said the GLO Project is undergoing environmental clearance for all the different pieces and the latest update is they should be three to four months. Mr. Roznovsky said prior to sending survey crews out, they want to be able to do some clearing before they survey.

Mr. Roznovsky said they returned plan comments for Wendy's earlier this month. Mr. Roznovsky said The Shoppes of Montgomery Retail Plaza, west of the driveway that was installed, is ready for approval for their encroachment agreement.

Mr. Roznovsky said they received the plans for Chick-fil-A, and they are reviewing them at this time. Mayor Countryman said they are starting to get lots of phone calls from residents and others and asked what the status of the project is because the proprietor is under the impression that the City is the bottleneck and that we have been unresponsive and dragging our feet. Mr. Roznovsky said the first time they received the plans was on August 13, 2019, and they returned the plans back on August 15, 2019, and the City had not received any revised plans until Friday, September 20, 2019, so it took them almost a month to submit the revised plans. Mayor Countryman asked if we are concerned about the Lift Station relocation. Mr. Roznovsky said there are a couple of different reasons with the land swap portion that needs to be done and they can do that prior to the Lift Station being completed in March. Mr. Roznovsky said

with that process underway, they have sent all the legal descriptions and the City Attorney is working on that information, and then the City will release the site while it is being bypass pumped and still pump down and keep access to it, and where the Lift Station is located at the very back of the parking lot, the 18-inch contractor is finishing up near the building so there is potential that they can be working on the building site pad while the Lift Station is being demolished, if necessary. Mr. Roznovsky said according to the contract it is October 9, 2019, so it is two weeks from today that the Lift Station should be out of the way. Mr. Roznovsky said he was not sure they would have approved plans by that time, but they will have comments back from Jones|Carter this week. Mr. Roznovsky said last time the plans had a good amount of work, especially with the Flood Plain, but if they have addressed that information, they should be ready to go. Mrs. Katherine Vu, with Jones|Carter said they received the first round of plans on August 13, 2019, and they returned comments on August 15, 2019. Mrs. Vu said they have not received plans until September 20, 2019.

Mr. Roznovsky said they held the one-year warranty inspections for the Villas of Mia Lago, Section 2 and they have scheduled the one-year warranty inspection for The Montgomery First Development for this Friday, which is underway.

Mr. Roznovsky said they will conduct the Town Hall Meeting next Wednesday at 6:00 p.m. at the Mount Sinai Church. Mr. Roznovsky said Atkins Creek and TxDOT are still on schedule for January 2020 for completion of their study on how to fix Atkins Creek as a whole, so they will continue to follow up on that information. Mr. Roznovsky said they have returned comments to TxDOT regarding the turn lane and they responded that they have received the information and reviewed it and it is now in their acquisition department to start papering up the donation of the right-of-way.

Mr. Roznovsky said they are working on the Design Manual Update and they expect to have a draft complete by the next Council Meeting.

- H. Financial Report – Mr. Tramm presented the information to City Council. Mr. Tramm said he wanted to mention that on page 35, Account 24334 is titled “Blank”, which was a category that was put in the budget for backflow income and was routed to a different

portion of the budget and the naming category remained blank. Mr. Tramm advised they would get that corrected. Mr. Tramm said he is working with the bookkeeper to open a separate TexPool Account for money the City owes for tax reimbursements, so they can take the money out of the main account and segregate, that way if they are ever asked about the funds it will show the funds are being held and it can be identified for the Auditor. Rebecca Huss said they had some discussions in length at the MEDC Meeting, and their CFO Julie Hutchinson is an accomplished accountant and pointed out that we accrued expenses owed under their 380 Agreement for the Milestone Agreement last year that was paid this year, and we were accruing expenses this year that will be paid next year, but we were actually just accounting for the funds this year, when really they should have done so last year. Rebecca Huss said MEDC decided to account for last year and this year in this year and begin accruing next year like they should have been accruing all along. Rebecca Huss said the MEDC had to take a double hit in the current fiscal year, and said she felt that was the most honest way to go forward for both entities since they both have the same type of agreements in which they are accruing expenses but paying them in the next fiscal year for the previous fiscal year. Rebecca Huss said this has not been correctly accounted for thus far. Jon Bickford asked if this was a volunteer on the MEDC that is offering financial advice. Rebecca Huss said it is Julie Hutchinson. Rebecca Huss said Mrs. Cathy Branco, the City's bookkeeper has also confirmed this information. Jon Bickford said if Mrs. Branco says this is what we need to do, then that is what we need to do. Rebecca Huss said the City accounts for everything on an accrual basis, even if you don't have the cash, the City still must account for the expense as it is earned, regardless if the money leaves the City. Rebecca Huss said the City owes the sales tax abatement as the quarters pass and that sales tax number becomes known to the City. Rebecca Huss said according to the legal agreement, we do not pay it until a certain date, but that date covers months in the past, which means every quarter that sales become known to us, we need to put it aside for when that next date comes across and they pay it out of the account in which we have set the funds aside, rather than just getting the bill and taking it out of the bank account and bill it when the bill comes in, which is cash accounting and not how we do things. Mr. Tramm said what happens is because of the agreements, there is a very long lag time between when they are calculating the reimbursement and then when it is paid. Mr. Tramm said with the Milestone Agreement they will be doing

the calculation in one fiscal year and then paying at the beginning of the next fiscal year. Jon Bickford said he understood what was being done. Rebecca Huss said it matches the way they do everything else; it is just the way this was put into practice the way that we do debt accruals and everything else. Jon Bickford said if Mrs. Branco is on board with this and the Accountant for the City is on board with it, he is good with it. Rebecca Huss said that means they will have a double whammy this year because they already paid last year's bill but accounted for it this year. Jon Bickford asked how much the expense was. Mr. Tramm said with the Milestone Agreement it was \$76,000, and there is also property tax. Rebecca Huss said what they paid last year, which was owed for the last fiscal year, was \$104,000, so she was guessing it would be in excess of \$175,000 this year because last year was not a full year. Jon Bickford said only half of that amount is what they would have paid anyway, so \$100,000 is roughly what they would need to set aside. Mr. Tramm said they were not talking about paying anyone extra money, they were just talking about how they were accounting for the funds, which will look like they had a large hit this year, but in the future, they will in line. Rebecca Huss said they will be setting the funds aside as the tax revenue is coming in and that will be what we owe based on what we receive. Jon Bickford said he thought they understood what they were doing.

Jon Bickford moved that they accept the Departmental Reports as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

T.J. Wilkerson asked about the Home Grant houses and asked where they were regarding starting to build the homes for the people that qualified for the grants. Mr. Tramm said he knew they have had some discussion on that matter, but he would check into the information and get back to City Council. Mayor Countryman said there was one particular resident that she and Ms. Hensley had worked with this week and it is moving in a positive direction and said Ms. Hensley is doing a lot of work on the case.

10. Consideration and possible action regarding 1062 Clepper Street, Montgomery, as submitted by Larry Jacobs.

Mr. Tramm advised there were two ways if City Council wants to proceed with this project, one being a Special Use Permit, and it would proceed to the Planning and Zoning Commission for a recommendation. Mr. Tramm said with a Special Use Permit it is like a zoning overlay

that City Council can put specific conditions on it. Jon Bickford said they decided that they could do the Special Use Permit. Mr. Foerster advised they could do a Special Use Permit.

Mr. Tramm said the other option is to completely rezone the property from residential to commercial, but that becomes a permanent change. Jon Bickford said the zoning change would be without control by City Council. Mr. Tramm said that was correct because they would not know what the next business would be should the business be sold, but with a Special Use Permit, City Council would have some control, such as, they might allow it to transfer with the business, but only with City Council approval, or other conditions.

Mr. Tramm said whatever City Council decides to do tonight, it will be going through the Planning and Zoning Commission and is a lengthy process to complete. Rebecca Huss said she has stated before that she is very opposed to the unrestricted move to commercial because she did not feel all the permitted commercial uses are appropriate for the Historic Business District. Rebecca Huss said barring the lack of Historic Commercial designation in the City, she feels the only way for her would be under a Special Use Permit.

Jon Bickford asked if there was a Special Use Permit, would they have to declare the buildings that are there are indeed portable and could not be on a permanent foundation. Mr. Foerster said City Council could put any conditions they want on the construction and use of property under the Special Use Permit. Mr. Foerster said they could place appropriate conditions and if those conditions are violated, City Council has the authority, per the Statute and the 98-27 of the Code of Ordinances to revoke the Special Use Permit. Jon Bickford asked what would happen if they revoked the Special Use Permit. Mr. Foerster said the property would go back to being strictly residential. Jon Bickford asked what would happen with whatever is located on the property and what would their recourse be. Mr. Foerster said City Council could make that a condition of the Special Use Permit that there would be certain obligations by the owner to move the buildings or come to City Council for authority to use them for some other purpose. Jon Bickford said looking at the worst case scenario, they authorize the Special Use Permit, they have the temporary buildings on it, and they decide it is a bad business and it goes bankrupt, then when would City Council revoke the Special Use Permit, because he does not want the buildings sitting there getting overgrown with the homes sitting on it. Jon Bickford asked what recourse they would have to remove the buildings. Mr. Foerster said if his company

went bankrupt, he might not have the resources to move the buildings. Jon Bickford said exactly his point, so guess who would have to pay to move the buildings, it would be the City if they wanted to do something about it. Jon Bickford said his concern is that it is so close to the entrance to Buffalo Springs and the Historic District, so they need tight controls and he is by no means interested in rezoning the property to commercial, but thought he could support a Special Use Permit as long as it is very tightly written. Mr. Foerster said he thought those were the instructions they are giving to the members of the Planning and Zoning Commission that are here tonight, and that you are open to it, but you are going to be cautious and you are asking them to contemplate the consequences of what can happen.

Jon Bickford said he thought it was a wonderful idea, but he is just nervous about where it is just in case. Rebecca Huss said the City has the right to require mowing and things like that, but ultimately if somebody does not pay their taxes, the property goes up for auction or if they don't comply they can fine, but ultimately if something is an attractive location it has a residual value, so with the assets if they are portable, people will sell them. Jon Bickford said at the end of the day you have a piece of residential property that you are granting a Special Use Permit for that has things on it, and he wants to know what they do to preserve downtown Montgomery Historic District and an entrance to a very nice neighborhood in Montgomery, whose property owners pay a lot of taxes. Rebecca Huss asked if they remembered what the property looked like a few years ago when they had the dilapidated building on it. Jon Bickford said the building was not all the way back in Buffalo Springs like it will be when the clearing gets done. Rebecca Huss said there will be a big buffer. Jon Bickford said it was only 25 feet.

Mr. Foerster said City Council was not planning to approve it, all they were doing was deciding as to whether they want to consider the Planning and Zoning Commission to look at rezoning, issuing a Special Use Permit or not to move forward at all. Mr. Tramm said the item will still have to come back to City Council for final approval.

T.J. Wilkerson asked if the property was in the Historic District. Mr. Roznovsky advised the property was just outside the Historic District. Mayor Countryman asked if the Historic District stops at Clepper Street. Mr. Roznovsky said yes. Jon Bickford said if they rezone the property, they have no control over the usage, and once you go to commercial you can't go

back. Rebecca Huss said she thought they all agreed with that, but with the Special Use Permit it would give City Council a lot of comfort.

Tom Cronin moved that City Council refer a Special Use Permit to City Staff to proceed with drafting a Special Use Permit and begin the Planning and Zoning Commission process of making a recommendation to City Council for the Special Use Permit. Rebecca Huss seconded the motion.

Discussion: Jon Bickford asked if they want staff to proceed with drafting a permit before they get feedback from the Planning and Zoning Commission. Rebecca Huss said she thought the Planning and Zoning Commission would be the ones doing the heavy lifting on this item. T.J. Wilkerson asked if the Special Use Permit is done, they can't change the use to commercial. Jon Bickford said that was correct it would stay residential and allows Special Use rules and regulations, which can be made non-transferrable so if the property is ever sold, they can revoke the Special Use Permit and protect that piece of property. Jon Bickford said if Mr. Foerster is clear that they can do that because he thought they could not. Mr. Foerster said in terms of the process, typically what City Council would want to do, as Tom Cronin suggested, is have staff work up something the Planning and Zoning Commission can look at and modify per their thoughts. Mr. Foerster said he did not find any problem with the motion as it was presented by Tom Cronin. Tom Cronin asked if the motion would require 100% since John Champagne is not present. Jon Bickford said that is only if they are proposing rezoning, so they do not have to have a 4/5 vote. Mr. Tramm said that it is only for the ultimate approval of the Special Use Permit when it comes back before City Council.

T.J. Wilkerson asked if the Special Use Permit would just narrow it down to whatever Mr. Jacobs has planned. Jon Bickford said it would be whatever Mr. Jacobs has planned and what the City Council accepts for the future of that property, should something occur. Jon Bickford said if Mr. Jacobs decides to sell the property, he would propose they have a clause that states the Special Use Permit won't be carried forward without City Council approval, so they have some stop gaps in the Permit to have the issue readdressed. Rebecca Huss said also given what has been stated, it must be durable and well maintained and those things will be codified in the Special Use Permit and would be an important component of its approval. Jon Bickford said what has been presented looks great and he would assume it is going to be taken care of and

look great, but we must protect the City in case there is ever a change in ownership. Mr. Foerster said if Mr. Jacobs was to violate his Special Use Permit, City Council could come back as the judge and jury and terminate the Special Use Permit. Jon Bickford said he just wants to know what they do after they terminate the Special Use Permit, and what do they do with those little buildings. Mr. Foerster said Mr. Jacobs will have a piece of property with houses on it that he can't use for revenue. Jon Bickford said the City will have a piece of property that the owner says if he can't use it then he won't cut the grass anymore, so his question is, in the Special Use Permit can that be what his recourse is if that occurs.

Jon Bickford asked Mr. Jacobs about the rental duration for the houses. Mr. Jacobs said he saw it as one to two-day rental as the average stay, people coming to town to visit. Jon Bickford asked that he give some feedback to the Planning and Zoning Commission to give a window for the stay duration and he would want to make sure that those are not long term rentals, and they don't become apartments, which he knows is not Mr. Jacobs intent.

Mr. Ferraz said he did not mind if the Special Use Permit was transferrable if the Special Use Permit had restrictions on the usage, and if the property does not revert to commercial and then turn into a gas station down the road. Jon Bickford said there were other residents of Buffalo Springs that are very concerned about this matter. Rebecca Huss said ultimately that should be City Council's decision for what is best for the City. Rebecca Huss said the transfer of the property should be up to City Council.

The motion carried with 3-Aye votes and 1-Nay vote by T.J. Wilkerson. (3-1)

Mr. Jacobs invited anybody to come and see him at his office to ask him questions stating he was an open book.

11. Consideration and possible action regarding the Replat for The Shoppes at Montgomery, Section 2.

Rebecca Huss asked about some of the acronyms on the plat. The City Engineer reviewed the information stating the SCE was the Sanitary Control Easement and the SS was the Sanitary Sewer Easement. Rebecca Huss said in the introductory paragraph the acronyms should be defined.

Jon Bickford asked why they are replatting the property. Mr. Roznovsky said the reason they are replatting is the use and how they are going to divide the property since the development has changed. Mr. Roznovsky said they have added six new reserves along SH 105 because the use is smaller type businesses. Mr. Roznovsky said it was also driven by the first one, Reserve H, which is the closest to the access road and in the middle of the drawing, which is where they are putting the retail center and once they drew up the footprint it did not fit on the existing Reserve that they had, so they modified it. Mr. Roznovsky said they also added the waterline easement that goes through the property and back around Buffalo Springs in order to create a waterline loop and provide service to the Reserve in the rear. Mr. Roznovsky said there was a release of a dead-end utility that was an electric easement that goes into Reserve H. Mr. Roznovsky said when they initially platted the property, not knowing exactly what they were going to do with the property, they now have better ideas and are starting to move forward and said the property will remain commercial.

Rebecca Huss moved to replat The Shoppes at Montgomery, Section 2 as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

12. Consideration and possible action regarding an Encroachment and Maintenance Agreement with First Hartford Realty Corporation for a private storm sewer in a public sanitary sewer easement.

Mr. Tramm said this is to allow the storm sewer line to cross through the sanitary sewer easement on the property. Mr. Tramm said the property owner understands that if there is any need for maintenance repairs, they must take care of their line. Rebecca Huss asked if their storm sewer line crosses over existing sanitary sewer lines. Mr. Roznovsky said yes, it does, it is over the new 18-inch sanitary sewer, which is extremely deep. Jon Bickford asked if their line would be over the top of the City's line. Mr. Roznovsky said yes it would be about 15-feet above our line. Rebecca Huss asked to confirm that there was no chance for erosion or I&I. Mr. Roznovsky said typically the City is okay with just a 12-inch clearance between the lines, but they have 15.7 feet.

Rebecca Huss moved to accept the Encroachment and Maintenance Agreement for the Storm Sewer Encroachment between the City of Montgomery and First Hartford Realty Corporation, as presented. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

Tom Cronin stepped out of the meeting during the vote and returned to the meeting following the vote.

13. Consideration and possible action regarding an Encroachment and Maintenance Agreement for Monument Signage by and between the City of Montgomery and CBH Properties Montgomery, LLC (Christian Brothers Automotive) for a monument sign within a public utility easement.

Mr. Tramm said this Agreement would allow the monument sign to be placed over the City's utility easement and they understand in the event that there is a need for them to relocate the sign or repairs to the sign due to becoming damaged if the City is doing work to the easement they are responsible for all repairs and maintenance to the sign.

Jon Bickford asked if they are putting the sign in the City's easement to put it closer to the road. Mr. Tramm said it has to do with the placement of the property and there are other signs out in the utility easement, which required these types of agreements. Jon Bickford asked if this one was out further. Mr. Tramm said that was not his understanding, he understood it was in line with the other signs. Mr. Roznovsky said it would be in line with the Procore sign, which is between CareNow and the Car Wash. Mr. Roznovsky said they will still need to come in for a sign permit.

Rebecca Huss moved to accept the Encroachment and Maintenance Agreement Monument Signage by and between the City of Montgomery and CBH Properties Montgomery, LLC (Christian Brothers Automotive) as presented. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the

qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

14. 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) Section 551.071 – Consultation with City Attorney regarding pending claims and contracts; and
- b) Section 551.087 (deliberation regarding economic development negotiations) regarding Town Creek Crossing.

Mayor Countryman adjourned into Executive Session at 8:05 p.m.

15. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 8:31 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

16. Consideration and possible action regarding item(s) listed under 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.

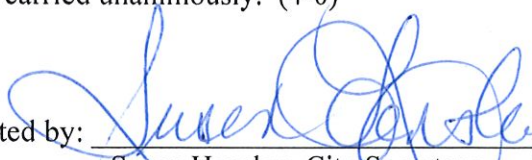
Rebecca Huss stated that under the purchase of the land at Wade Street, she believed City Council committed to changing the name of Wade Street to L.A. Washington Street. Rebecca Huss advised the elder Mr. Washington has passed away and was buried two weeks ago and she felt the City had missed the moment to do the change, but it does not mean the City should not follow through on our promise and rename Wade Street to L.A. Washington Street. Rebecca Huss said the younger Mr.

Washington would still appreciate the City following through on that promise, stating that it was not too late to do the right thing. Rebecca Huss said shame on the City for waiting so long to get this done because she has brought it up before. Rebecca Huss said Mr. Washington lived a long time and we could have gotten it done. Rebecca Huss said Mr. Washington was a funny man and said that someone had called her during Hurricane Harvey and was saying that Mr. Washington needed to be evacuated from his house and the water was rising. Rebecca Huss said she called his son and his son said his Dad knows his phone number and he will call him if he needs him. Mr. Washington said he had been to his Dad's home an hour before and he had refused to leave his house. Rebecca Huss said she thought Mr. Washington had lived in that house his entire life and she would like to have the City follow through on renaming the street. Mr. Tramm said he would research the information and bring it back to City Council. Rebecca Huss said she believed there was some concern regarding having a Mc Washington Street and a Washington Street, but stated if they called it L.A. Washington Street it would be okay. Jon Bickford said there are something like 182 streets with the name Peach Tree in them in Atlanta, so he was sure they could get by with two Washington's.

Mr. Muckleroy asked if this action was voted on already. Rebecca Huss said they had talked about it, but she did not think they voted on the matter, but it was something the younger Mr. Washington said would be important to him as part of the discussion over the process. Mr. Muckleroy said he remembered the discussion, but he did not remember an action. Rebecca Huss said they did not formerly vote on it. Jon Bickford said if the matter must come back for a vote then they will vote. Mr. Tramm said if they will research the information and if it needs to come back to City Council he will do so. Rebecca Huss said she did ask for that prior to this and nothing ever happened.

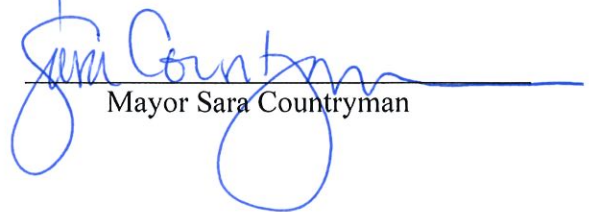
ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 8:35 p.m. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

Submitted by: 
Susan Hensley, City Secretary

Date Approved: 10/08/19




Mayor Sara Countryman