

**MINUTES OF REGULAR MEETING**

**October 8, 2019**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Pro Tem T.J. Wilkerson declared a quorum was present and called the meeting to order at 6:00 p.m.

Present: T.J. Wilkerson City Council Place # 3  
Rebecca Huss City Council Place # 4  
Tom Cronin City Council Place # 5

Absent: Sara Countryman Mayor  
Jon Bickford City Council Place # 1  
John Champagne, Jr. City Council Place # 2

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**

**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. Floyd Montgomery advised his Montgomery Museum was open for about three months in the Law Office and he closed the end of last month and is hoping that he can find another location. Mr. Montgomery said the N.H. Davis Museum did not have a decent on-site half the time. Mr. Montgomery talked about the History Channel show The Vikings, stating there would be reference to the Montgomery name in the show this year.

**CONSENT AGENDA:**

1. Matters related to the approval of minutes of the Public Hearing and Regular Meeting held on September 24, 2019.
2. Consideration and possible action regarding adoption of the following Resolution:  
RESOLUTION SUBMITTING NOMINEE(S) AS CANDIDATE(S) FOR THE ELECTION OF THE MONTGOMERY CENTRAL APPRAISAL DISTRICT'S BOARD OF DIRECTORS 2020-2021 TERM.
3. Consideration and possible action on cancelling City Council's second meetings of the month for November and December 2019.
4. Consideration and possible action regarding recurring street closure of the south portion of McCown between SH105 and Caroline Street on the 2<sup>nd</sup> and 4<sup>th</sup> Sunday of the month for Sunday Market as requested by the HMBA.
5. Consideration and possible action regarding adoption of the following Resolution:  
RESOLUTION BY THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS, DESIGNATING THE COURIER NEWSPAPER AS THE OFFICIAL NEWSPAPER FOR THE CITY OF MONTGOMERY AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT.

Rebecca Huss noted a correction in the minutes listed under Item 1, advising the name "Perez" in the Public Hearing section of the minutes should be spelled "Ferraz" and is found in several locations. The City Secretary advised she would make the correction.

Rebecca Huss asked to pull Item 2 as a separate item. Rebecca Huss said she felt City Council needed to have a more thorough discussion on this item because there were no actual candidates

discussed for submittal. Mr. Tramm advised there were no recommendations from a staff level or from anyone that would have come forward. Rebecca Huss asked about the current Board Members and who the current appointments are from other municipalities. Mr. Tramm advised he did not have that information and advised this Resolution is due October 15, 2019. Mr. Tramm said he had spoken with two other cities and in each case, they were putting one of their Council Members up for nomination. Rebecca Huss said last year they nominated Mike Meador for the position.

Tom Cronin said in the minutes it stated T.J. Wilkerson was absent during roll call, but then the minutes showed him voting. Ms. Hensley advised that it showed in the minutes when T.J. Wilkerson arrived later in the meeting.

Rebecca Huss advised Mike Meador was our representative last year and he is currently Vice Chairman of the Board.

After discussion, Rebecca Huss moved to renominate Mike Meador as our nominee for the Montgomery Central Appraisal District Board. T.J. Wilkerson seconded the motion, the motion carried with 2-Aye votes and 1-Nay vote by Tom Cronin. (2-1)

Rebecca Huss moved to accept the consent items with the revision to Item 1, changing Mr. Perez to Mr. Farraz, and Items 3, 4 and 5, as presented. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

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

6. Presentation by the Montgomery Historical Society regarding preservation of historic structures. Mrs. Brenda Beavan, Board Member of the Montgomery Historical Society and Montgomery County Historical Society and a 7<sup>th</sup> grade history teacher in Montgomery, made the presentation. Mrs. Beavan thanked the City for allowing her to make the presentation. Mrs. Beavan recognized the Board Members of the Montgomery Historical Society that were present, Sonya and Lonnie Clover, Shirley Schneider, Eva Rains, and Mary Eckhart Sims. Mrs. Beavan said Mr. Foerster had suggested she might want to go over some of the things the Historical Society does for the City of Montgomery to keep the history alive. Mrs. Beavan said it was also

suggested and Billy Ray Duncan spoke to Mayor Countryman who said it would be a great idea for all of them to come to Council.

Mrs. Beavan advised they were curators and are here to preserve and take care of the history of Montgomery that includes the Nathaniel Hart Museum, Davis Law Office, McCall Law Office, the old Post Office, the Addison Gandy House, the old Baptist Church and the cemetery, which has recently has been added to the list of things they take care of and the Arnold Simonton House, which is currently under the care of Fernland Park and the City of Montgomery. Mrs. Beavan said they appreciate the care the City has taken of the Arnold Simonton House.

Mrs. Beavan said the Historical Committee does not make a lot of money from the Cookie Walk and said it takes a lot of money to upkeep these houses that are over 150 years old. Mrs. Beavan said they had put together how much it is costing them to keep these homes looking good. Mrs. Beavan said if you look at the Nathaniel Hart Davis Complex, in February 2016 they spent \$12,000 for painting and repairs to the Complex. Mrs. Beavan said she did not think they have ever looked as good as they do now because they were able to paint all of them at one time, and not just a few being painted. Mrs. Beavan said they installed a cedar roof on the Nathaniel Davis Law Office for \$5,300 and cleaned the attic for \$3,000. Mrs. Beavan said there was a cistern in the back of the law office that was crumbling, and they were afraid that during the scavenger hunt one of the children might step on it and fall into it. Mrs. Beavan said her husband found someone to fix the cistern for \$6,500. Mrs. Beavan said the Addison Gandy House has a lot of history that is tied to the Davis family, and they were very lucky to have the home donated to them, but the repair and upkeep are expensive. Mrs. Beavan said the old Baptist Church was \$19,500, which included all the ceiling tiles being replaced, the old Post Office cost \$13,500 for a new roof and \$10,000 in 2015 when they rebuilt the outside and sidewalk. Mrs. Beavan said they spent \$6,000 for complete restoration of the Monk Map that was hanging in the Magnolia House since 1854. Mrs. Beavan said the map was shredded and in millions of tiny pieces, so they took it to Houston to be restored, it was sent to Virginia and now it hangs in City Hall. Mrs. Beavan said City Hall and Chris Cheatham contributed \$3,000 to get the map framed.

Mrs. Beavan said they are now curators of the old Cemetery, which costs \$1,800 a year, Addison Gandy House, Museum and Stewart property and old Baptist Church is almost \$5,000 for lawn work and the cleaning is \$4,200 each year.

Mrs. Beavan said there are very few people working on this venture, so they also need new members. Mrs. Beavan said the only income they receive is during Christmas because they have no other fundraisers, which includes the Cookie Walk, which the children supply the cookies, the open houses where the families that live in the historic homes open them up to the public. Mrs. Beavan said when someone purchases a ticket to tour the homes, they split the ticket price 50/50 with the homeowners. Mrs. Beavan said they are going to go before the MEDC Board later in November when she is applying for funds because they counted so much on receiving the \$5,000 from the MEDC. Mrs. Beavan said she knew MEDC had changed the rules to receive funds and said they make very little money on this event and bring in how many people to Montgomery during that week. Mrs. Beavan said in 2018 they received no funds from MEDC and their balance in their account is \$6,661.

Mrs. Beavan said the Christmas Parade brings people to town and asked that the people be allowed to stay following the Parade to help the businesses. Mrs. Beavan asked that they help encourage to keep the people in the City versus trying to send them away. Mrs. Beavan said she knew there was some discussion right now about the Parade and how it is going to function, and she believed the comment was made to get the people out of town, and she said she did not think the restaurants and businesses want the people to leave town, they want them to stay and shop and eat in the restaurants. Mrs. Beavan said they want the people to stay because they have vendors who down by the Community Center, the Cookie Walk and the Home Tour all want the people to stay in the City. Mrs. Beavan asked the City to think about all this when they talk about the Christmas Parade because it brings hundreds, and possibly thousands of people into the City because it is packed when they are here.

Mrs. Beavan said they do not have brochures, which they need and said many of the people that come to the City are over the ages of 50-60 and they would use the brochures because they are not always looking things up on their phone and they would like to have something in their hand as they walk around and tour some of the houses in the City.

Mrs. Beavan said either the City or the MEDC was planning to pay for a few historical markers in Montgomery. Mrs. Beavan said they did get the marker ready with the help of Lonnie Clover and Mr. Forster for the Addison Gandy House, and now they understand the City and MEDC is

not willing to pay for that historical marker to go up. Mrs. Beavan said they were told that would happen and right now they need to come back before the MEDC and explain the needs that they have because this brings people to Montgomery. Mrs. Beavan said Montgomery is a historic town and they need to focus on the fact that it is one of the reasons people come here.

Mrs. Beavan said over 700 students with their parents, siblings and their grandparents come to Montgomery between December and April for the scavenger hunt. Mrs. Beavan said this year the dates will be October to February, starting this week. Mrs. Beavan said they are doing that because there is the event Voices from the Past that will happen next weekend on Saturday from 12 noon to 4:00 p.m. where they will have a lot of people that will be in costume standing next to the grave of the person they are depicting so they can tell the people about that person. Mrs. Beavan said there will be no charge to the 7<sup>th</sup> graders and is only \$5 for an adult to tour three cemeteries. Mrs. Beavan said it was safe to assume that all the people that come to Montgomery are spending money in town while completing the scavenger hunt. Mrs. Beavan said she started the scavenger hunt 20 years ago when she came here, and she did one in Humble before she came to Montgomery. Mrs. Beavan said she had three goals for all her scavenger hunts; 1) learn to appreciate the local history, 2) families to spend time together before their children go to high school and 3) help the business community.

Mrs. Beavan said the City of Montgomery without the Montgomery Historical Society, advised all the homes she just talked about, there was a very good possibility that they would not be there without their work. Mrs. Beavan said it is very costly to operate and keep these homes where they look good and said she did not think anyone could say they did not look good because of the work of the Montgomery Historical Society.

Rebecca Huss thanked Mrs. Beavan for the information, stating most of it is very old information that is newly available. Mrs. Beavan said the Montgomery Historical Society would like to be appreciated a little bit, and it seemed like through the years without anyone knowing what they do, how can they expect to be appreciated. Rebecca Huss said they should work together.

T. J. Wilkerson thanked Mrs. Beavan for the presentation, stating he was a history buff and said he really enjoyed it and hopefully it will come to fruition. T.J. Wilkerson said he could see

around February tying some other things in with the Montgomery Historical Society, and said people would probably be interested in coming and learning about a lot of the things that are going on, they just have to make sure and reach out to them.

7. Consideration and possible action regarding a Utility and Economic Feasibility Study for Promocon USA, LLC (West Lakes Development – Dev. No. 1904).

Mr. Roznovsky presented the information to City Council, advising the developer had approached the City during the summer regarding a single-family development located off Old Dobbin-Plantersville Road on the southwest side, outside the City limits and located across from the Ag Barn for the High School.

Mr. Roznovsky said since the property is not in the City it will require annexation and will need to be zoned R-1 single family since it is not currently zoned. Mr. Roznovsky said they are proposed to have 168 lots over the 44-acres that would allow 50-foot lots that are less than the 9,000 square foot minimum requirement, so they will have to request variances for minimum lot sizes and widths. Mr. Roznovsky said the City's future land use plan that the Planning and Zoning Commission worked on a while back, this area is in one of the lower density areas. Mr. Roznovsky stated the developer estimates the average home sale price to be \$200,000 each, with an approximate buildout of 3-years according to their estimations.

Mr. Roznovsky said this development would be located with the Dobbin-Plantersville Water Supply Company ("DPWSC") Certificate of Convenience and Necessity ("CCN"), so water service would be provided by DPWSC and not the City of Montgomery. Mr. Roznovsky said one other requirement of that is they will still have to meet the City's standard regarding fire flow capacity, etc. Mr. Roznovsky said the developer has talked to DPWSC and they said they could provide service, and one thing that would be a requirement prior to plan approval is a certified letter stating they could meet the City's flow requirements. Mr. Roznovsky said another thing is the ownership of the public water system would not be the City's system but would be the DPWSC system, so the City would only be providing the sanitary sewer service.

Rebecca Huss said this sounds like it is fraught with all sorts of untenable issues, where the City is providing everything but the water service and if there is a problem with the water service

there is nothing the City can do about it, we would have to say call DPWSC. Mr. Roznovsky said that was correct. Rebecca Huss said she did not think the City could tell their taxpayers that. Mr. Roznovsky said this is the same as Appendix "A" on the map, where everything in the cross-hatched area to the west of the City and south is in the DPWSC CCN. Mr. Roznovsky said they are going to have this issue in the ETJ time and time again. Rebecca Huss asked if they purchase that area from DPWSC or seize it. Mr. Roznovsky said they met with DPWSC earlier this year, City staff and the Mayor, and their intention is to serve everything that is in their area and not give away service area. Mr. Roznovsky said the City can either provide only sanitary service or you don't annex the property, then they will be required to either put in their own MUD or entity to provide sanitary service to their customers. Mr. Roznovsky said these lots are not big enough to provide the area for septic systems. Rebecca Huss said the lots are not big enough to meet the City's standards, which is another problem altogether because the taxable value is \$160,000 per year. Mr. Roznovsky said it was \$128,000. Rebecca Huss said that was not particularly attractive with all the risks that go with the development. Mr. Roznovsky said there were a lot and other things to consider with the sewer service, they would have to provide a regional lift station because in that area there is no existing service. Mr. Roznovsky said the estimate for a lift station and force main is \$770,000 to install all that and to make it deep enough so it does not serve just one development instead of the City ending up with five or six different lift stations. Mr. Roznovsky said the force main would have to go approximately 4,800 feet to get to the nearest spot.

Mr. Roznovsky said drainage would have to show what is going to be done, traffic would not be on City roads, so they would have to work with the Country on traffic, stating they will be putting about 1,700 cars a day on Old Dobbin Plantersville Road, which is already a small busy road.

Mr. Roznovsky said the Thoroughfare Plan, as stated in Appendix A, the dashed purple line is the south loop for Lone Star Parkway, which cuts the corner of this tract so they have it included on their preliminary land plan, which is not quite wide enough, because everything else is 180 foot wide right-of-way so they would have to revise it for the required width and it will take away some more of the lots.



Mr. Roznovsky said the developer stated they would be in construction for a total of eight months, so they assumed having to inspect it ten hours per week for eight months, which would be an estimated cost for that based on their schedule between inspections, plan reviews and all the agreements and City staff time would total \$74,000, Wastewater Impact Fees for 168 connections would be \$422,184, so the subtotal, not including any of the onsite utilities would be \$1.2 million dollars.

Mr. Roznovsky said the last section covered was the financial feasibility, stating the current tax rate is \$128,000 per year and with full build-out with a 95% collection rate. Mr. Roznovsky said this information is to shed light on this proposal that is coming to the City and the issues that are around it, considering the facts with DPWSC and what this opens up. Rebecca Huss said it is terribly unattractive to us and she could not believe the developer would be loving the numbers either.

Rebecca Huss said to Mr. Tramm they need to sort out the issue of having a split water supply, stating she could not see the risks involved with the City not being the water supplier, but supplying everything else. Rebecca Huss said it was incumbent upon the City to make homes habitable and safe, and we can't do that because we can't control the water. Rebecca Huss said who would they call, their water supplier if they have a problem, that just does not sound realistic, they should be calling their City or Police Department, we would have to say we could not help them and she did not see that as a position the City could live with. Mr. Tramm said there are some areas that fall into the same situation with the way DPWSC has a CCN out there, but he understands what Rebecca Huss was saying because if they are not supplying proper pressure or volume, we are in a position where we can't do anything about it. Rebecca Huss said there are other situations where you have a big organization or company or supplier that is separate from the municipality, that is fine, but this is a long tentacle that is a long outreach from a smaller company that does not have the imperative to fix a problem, or they don't have the backup switch they can turn or a loop where they can run the water the other way, they do not have any of the safeguards that you would have with a larger company or a larger service area. Rebecca Huss asked where the closest service is that DPWSC has right now. Mr. Roznovsky said they have an existing water plant on Spring Branch Road, just south of the intersection of Old Dobbin Plantersville Road, which is relatively close to this tract. Rebecca Huss said that is just where they deliver, that is where they would bore from. Mr. Roznovsky said that was

correct, he knew they provided Promocon an estimate to upsize and extend utilities to them, but he did not know the details of it. Mr. Roznovsky said according to DPWSC that is one of the areas they plan on expanding in the future as they continue to buildout. Mr. Roznovsky said he did not have any idea about redundancy or loops or if the one plant goes down what would happen, he does not have knowledge of their system.

Tom Cronin said that Mr. Roznovsky was the contract City Engineer and asked how this would benefit the City of Montgomery. Mr. Roznovsky said the biggest benefit that he could see is the opening up of the area and a regional lift station if you can work out the two services scenario. Mr. Roznovsky said if you are able to start getting right-of-way for the southern portion of the City, and you get the regional lift station or at least a site to be able to expand the lift station to serve these areas because he knows there has been interest in surrounding tracts and this would help out others and encourage development and bring more people into town. Mr. Roznovsky said from a logistic standpoint there is a lot going on with this development. Mr. Roznovsky said from his understanding or interpretation of what the Planning and Zoning Commission imagines this area is for larger acreage and estate type homes because there is nothing else that is a higher density single-family development in this area, so it is outside the box and different than what has been envisioned. Rebecca Huss asked if they have the finances to put this development down. Mr. Roznovsky said he did not know much about this developer and said he believed the developer was from the San Antonio area. Mr. Roznovsky said the developer requested the feasibility study in August after the application in June, and they were ready to present but had to wait for information for this study from the developer for three weeks. Rebecca Huss said when we give them an idea of how much the development will cost for their impact fees, but if they don't build for another seven years, is the City committed to that number and even once we commit and it takes the developer eight years to build out and everything is more expensive, where is the City's protection in that. Mr. Roznovsky said the City's impact fees rate is set when they plat the property, so if they take five years to design this and put it on the ground when the final plat is recorded is when the fees are assessed. Mr. Roznovsky said if the project takes eight years to build out instead of three years, that house in the eighth year is still based on the impact fee when the final plat was recorded. Rebecca Huss said there is no protection. Mr. Roznovsky said they could go back and reassess them if there is a substantial change in use or some situation like that, but if it was just because they did not build the home until five years later, he did not believe they could, but he would have to confirm

that information. Rebecca Huss asked if that was according to State Law or just the City's Code. Mr. Roznovsky said he would check both.

Rebecca Huss moved to accept the Jones|Carter Utility and Economic Feasibility Study for Promocon USA, LLC (West Lakes Development – Dev. No. 1904). Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

8. Consideration and possible action regarding authorizing Jones|Carter to proceed with preparation of a Master Drainage Study of Town Creek Watershed per the proposal dated September 26, 2019 in connection with the future drainage improvements to be completed on Ander's Branch through the Texas General Land Office Grant.

Mr. Roznovsky advised when the City applied for the grant last summer with the Texas General Land Office ("GLO") for the \$2.3 million dollars grant the City finally did get awarded and signed the contract in August. Mr. Roznovsky said one of the things at the forefront was doing these improvements to Ander's Branch and describing drainage. Mr. Roznovsky said they needed a study and model to show the impacts of the improvements and what is being proposed. Mr. Roznovsky said the initial cost of the study was put into the grant and was submitted to the State, it came back that the proportion of construction costs and nonconstruction costs was off, so they did not allow the study to be part of it. Mr. Roznovsky said what was decided with the City Administrator at the time was to remove it from the grant application, so the grant covers the construction and design and grant administration fees. Mr. Roznovsky said this study was to be paid out of City funds. Mr. Roznovsky said Jones|Carter provided a proposal back in December of last year, which is the same proposal being presented tonight, minus the dates changed. Mr. Roznovsky said in December it was decided to wait to bring to City Council until they had the GLO grant and part of it was they needed some survey work to complete the Ander's Branch portion, which is coming out of the design funds, so they are not doing both and they wanted to kept them as close together as they could to be able to use the design funds to do the surveying instead of tacking it on to the study costs, which comes out of City funds. Mr. Roznovsky said the purpose of this study is Ander's Branch, so between MLK and FM 149, Plez Morgan and then down to the Buffalo Springs Bridge, the goal is to improve that area. Mr. Roznovsky said they spoke to Mr. Philip LeFevre and Ms. Hillary Dumas and received all the information they had regarding the studies they had done on Town Creek to see what

information could be used as well as from the Buffalo Springs Bridge. Mr. Roznovsky said much of the information was not Ander's Branch specific, they are looking at Town Creek, but their main goal is Ander's Branch.

T.J. Wilkerson asked if that would go behind the school. Mr. Roznovsky said yes, all of Ander's Branch starting at FM 1097, then working all the way down roughly to the Buffalo Springs Bridge. Mr. Roznovsky said they are looking at running different scenarios of making improvements of the channel itself and cleaning out, is it widening, is it creating an area off to the side for it to detain it while it is flowing, is it improving the crossings at MLK and FM 149 and Plez Morgan, and then anything that gets changed how it will effect to downstream property owner between Plez Morgan and the Bridge to make sure that does not affect them negatively because of the improvements. Mrs. Snead, who was present, asked when the work on Ander's Branch would begin. Mr. Roznovsky said they are on hold while the environmental review is done, so no work, including clearing, can be done for a four-month process minimum and they have three months left before the environmental clearance is received. Mr. Roznovsky said one thing they would prefer is to do the initial cleanout of the channel first and then send the surveyors in because it will save a lot of time for the surveyors.

Rebecca Huss said given the cost of the study in excess of \$50,000, she asked Mr. Tramm if they needed to bid this project out. Mr. Tramm said he did not know the legal requirements for that, but stated it was a sizable amount, and said if that is something City Council wanted to do, there are several engineering firms in the area. Rebecca Huss said this did not seem to be connected to other projects that the City has. Mr. Roznovsky said other than it is directly tied to Ander's Branch. Rebecca Huss said it is not like the Bridge where it was connected to the grant and FEMA process, which made it very difficult to untangle, this is directly connected to City funds, which is directly connected to our taxpayers that we see here. Mr. Roznovsky said that is correct, it is not tied to a grant.

Mr. Tramm said with direction from City Council he will take care of it and move in that direction and get back to City Council. Mr. Tramm said the City Attorney has said it is not a legal requirement, but it is certainly something the City can do. Rebecca Huss said for \$50,000 it is worth a question to see if anyone is interested and if they can save the taxpayers any money. Tom Cronin said he was fine with that. T.J. Wilkerson said he was good with that too. Mr.

Roznovsky said they can work with Mr. Tramm to make sure that whatever deliverable comes out of that is usable for design purposes, and all the scenarios being evaluated are the same.

Mr. Foerster said he wanted to advise the Texas Government Code provides there are certain professional services that can't be bid out, they can be negotiated, but not bid out, which includes engineering fees, legal fees and architects and so forth. Mr. Foerster said in terms of bidding it out, they could not do that as such, but that does not mean they could not negotiate or discuss with other engineering firms what their fees would be. Rebecca Huss said she would like Mr. Tramm to negotiate the possibility of saving the taxpayers some money, whether it be negotiating with Jones|Carter or other interested parties. Mr. Tramm said he would proceed with that and make contacts with other engineering firms in the area that might have an interest. Rebecca Huss said they need to stay on schedule which is important to her.

Rebecca Huss asked if they had to table the item or just take no action. Mr. Foerster said City Council could choose to take no action on this item, but if they table it that would mean it would come up for another discussion at a future Council Meeting.

Rebecca Huss moved to table this item. Tom Cronin seconded the motion, the motion carried with two Aye votes and one Nay vote by T.J. Wilkerson. (2-1)

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

AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS, LEVYING A SEVEN PERCENT (7%) TAX UPON THE COST OF OCCUPANCY OF ANY SLEEPING ROOM FURNISHED BY ANY HOTEL, MOTEL OR OTHER OVERNIGHT LODGING WITHIN THE CITY OR ITS EXTRATERRITORIAL JURISDICTION USED IN ACCORDANCE WITH CHAPTER 351 OF THE TEXAS TAX CODE; PROVIDING FOR THE COLLECTION OF THE OCCUPANCY TAX; PROVIDING FOR CIVIL PENALTIES AND INTEREST FOR DELINQUENCY IN PAYING THE CITY OCCUPANCY TAX; PROVIDING FOR A FINE OF UP TO \$500 FOR VIOLATING THIS ORDINANCE AND FOR OTHER CIVIL REMEDIES; DESIGNATING THE USE OF THE REVENUE DERIVED TO THE CITY FROM THE OCCUPANCY TAX; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR

SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Tramm advised the purpose of this ordinance is to bring up to date the City's current hotel occupancy tax, this is not an attempt to change the tax that is currently out there. Mr. Tramm said this does not address the Air B&B previously discussed, this is just to provide a full update to the current. Mr. Tramm said if City Council wants to address Air B&B, they can bring that information back to City Council at a future date.

Mr. Foerster stated the City does have a hotel occupancy tax according to what they understand from the Texas State Comptroller's Office, however, it is his understanding they have never found the formal ordinance that approved that tax, none the less, it is recognized by the Texas Comptroller's Office. Mr. Foerster said the statute, which is found in Chapter 351 in the Texas Tax Code provides among other things, it sets a rate of up to 7%, and it allows for penalties and interest for those individuals who collect the tax or should be collecting the tax for the City to be penalized if they are delinquent in paying. Mr. Foerster said none of that is spelled out anywhere else, so they are including that information in this ordinance so it will incentivize people that are bed and breakfast, hotels and motels and future motels they expect will come to the City to be able to know they have to pay that tax or they will be penalized, and there are also some criminal penalties associated with this. Mr. Foerster said this ordinance allows the City to collect the hotel occupancy tax within the City's extra territorial jurisdiction as well and makes it much more specific as to the scope of the City's authority as found in Chapter 351 in the Texas Tax Code.

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

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

Mr. Tramm advised during the last City Council Meeting this road closure request was approved, pending contacting businesses affected by the road closure. Mr. Tramm said upon contacting the affected businesses, they did have two that were in opposition to the closure. Mr. Tramm said staff was in contact with the requestor and they looked at modifying the road

closures so they could isolate the closures and allow street access for those businesses. Mr. Tramm said they basically turned the "T" closure that is often used to an inverted "L" shape, which would allow access to the businesses and parking on McCown and College Street on the east side. Mr. Tramm said the closure layout will also work for Bears Etc. Mr. Tramm said since City Council required unanimous approval of the affected businesses, he wanted to bring it back for approval of the revision for the closure. Rebecca Huss asked if they still have two businesses that are opposed. Mr. Tramm said the two businesses that were opposed, the modification will provide street access for them, so this removes their opposition. Rebecca Huss said it was not unanimous because they had six people who did not provide input. Mr. Tramm said that was correct, but staff did attempt to contact them. Rebecca Huss said she appreciated Mr. Tramm putting so much effort into making it a harmonious event, which is certainly a difficult thing to achieve, and said she appreciated all the work that went into it.

Tom Cronin moved to approve the revised action regarding the road closure request from Bears Etc. for OctoBEARfest to be held on October 12, 2019. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

11. Consideration and possible action to authorize engagement of Radcliffe Bobbitt Adams Polley as Bond Counsel for upcoming Refunding of 2012 Series Bonds.

Mr. Tramm asked that this item be pulled from action at this meeting. No action was taken.

T.J. Wilkerson said he had a speaker request from Kembra Drummond. Rebecca Huss said her item had no discussion.

**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.

12. 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 Pro Tem T.J. Wilkerson adjourned into Executive Session at 7:06 p.m.

13. Reconvene into Open Session.

Mayor Pro Tem reconvened into Open Session at 8:02 p.m.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

14. Consideration and possible action regarding item(s) listed under Executive Session.

Tom Cronin moved to approve the Petition for Consent for the Creation of Montgomery County Municipal Utility District 160 or Annexation of land in Montgomery County Municipal Utility District 179. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

**COUNCIL INQUIRY:**

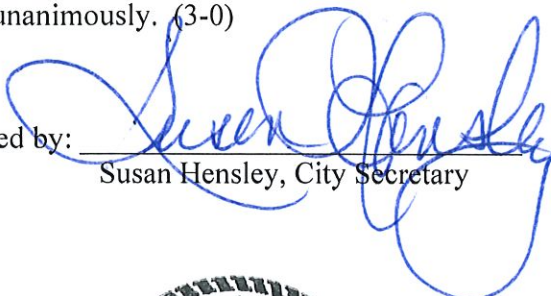
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

No comments were made.



ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 8:04 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

Submitted by:  Date Approved: 11/12/19  
Susan Hensley, City Secretary



  
Mayor Sara Countryman