

## MINUTES OF REGULAR MEETING

November 12, 2019

## MONTGOMERY CITY COUNCIL

### CALL TO ORDER

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:00 p.m.

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

Absent:

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

### 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.

There were no citizen comments.

**CONSENT AGENDA:**

1. Matters related to the approval of minutes of the Regular Meeting held on October 8, 2019.
2. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION BY THE CITY COUNCIL OF CITY OF MONTGOMERY DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY PROGRAM (CDBG-DR) CONTRACT NUMBER 19-076-017-B366.
3. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY ADOPTING REQUIRED CDBG-DR CIVIL RIGHTS POLICIES.
4. Consideration and possible action regarding adoption of the following Proclamation:  
A PROCLAMATION BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY PROCLAIMING APRIL AS FAIR HOUSING MONTH.
5. Consideration and possible action regarding approval of a second Encroachment Agreement for Chick-fil-A to allow a retaining wall, paving and a monument sign to encroach into a utility easement.
6. Consideration and possible action regarding authorizing the absence of City Council Members John Champagne, Jr. and Jon Bickford.

Rebecca Huss stated no action was necessary for Item 6. No action was taken with the presence of both Jon Bickford and John Champagne, Jr.

Rebecca Huss discussed Item 5, stating she had an issue last time they had an Encroachment Agreement and asked where the actual written engineer's comment on this easement request was, stating this one has a wall which the other Agreements only had pavement. Rebecca Huss said this wall, apparently, is up to six feet tall plus an additional four feet of concrete, plus three feet of footings, which is presumably not an insignificant amount of weight, which depending on where it is relative to the sanitary sewer could put pressure on the sewer and possibly crack it. Rebecca Huss said if the City had to do some construction and they had to remove part of the wall, that would be more expensive than concrete and asphalt and she did not know what would happen if they took down the middle part of the wall, and whether that would destabilize

everything, which would add a lot more cost and structural issues to the whole project. Rebecca Huss said she would like to see the Encroachment Agreement (a) talk about what happens if this wall damages the City's sanitary sewer should it be over the sanitary sewer and they have to build something to protect the sanitary sewer from the weight of the structure; and (b) that it also addresses the fact should the City have to reconstruct and it causes damage to some other part when they deconstruct the wall, that will also be included in what is not the City's responsibility. Rebecca Huss said she would like to have the engineer's opinion on this as well, which is not in this document.

John Champagne said when he read the document all the repairs that may or may not have to be done as a result of encroaching on the easement is their responsibility, not the City's. John Champagne said he also wanted to assume all the things that Rebecca Huss brought up were at least looked at and investigated by the people we have hired to do these things. Rebecca Huss said she would like to hope so, but she would like the engineer's report with an engineer's signature and insurance attached to it. Rebecca Huss said the collateral damage that could be caused by deconstructing part of this wall causes her to worry. Jon Bickford asked if they got confirmation of who was responsible for any damage caused by the sign from Chick-fil-A. Rebecca Huss said she thought an expansion to the agreement versus what a normal Encroachment Agreement is for a nice flat parking lot would be fine with her. Rebecca Huss said she also wanted the City Engineers to look at it because she would rather not have a sewage issue because depending on where it is, that could be a lot of the City's sanitary sewer running by there. Mr. Roznovsky, City Engineer, said it is, and when they looked at the information they do not believe there is any issue because of the depth of the line that is located there and there is so much space above the line that all the pressure is dispersed. Mr. Roznovsky said if it is a new line it is imbedded in cement stabilized sand to distribute any forces above, and because of that they do not feel it is an issue. Rebecca Huss asked about Mr. Roznovsky's letter. Mr. Roznovsky said he did not have a letter to go with the item. Rebecca Huss said she would like a letter stating how they feel about the agreement.

John Champagne said he would ask that they approve the Consent Agenda including what Rebecca Huss has asked for. Rebecca Huss asked if that would include the letter from Jones and Carter saying it is safe. John Champagne said yes but let's let Chick-fil-A move on. Rebecca Huss asked if there would be no additional acknowledgment in the agreement saying

that if they must take down their wall it could cause additional damage. John Champagne said that was already in the agreement and they are responsible no matter what happens they have encroached, and they are responsible for any repairs that must be done. Rebecca Huss asked what would happen if something happens outside the easement area when the six-foot wall comes down. Jon Bickford said that would no longer be any business of the City. Rebecca Huss said she would like the agreement to say that. Jon Bickford said they can't because how could they declare what somebody should do on somebody else's property. Rebecca Huss said she was saying if there is damage caused because the City must do repairs, and we took down the wall. Jon Bickford said if it is in the easement the City is not responsible. Rebecca Huss said it could be collateral damage caused outside the easement. John Champagne said the City is not going to pay for damages on their property caused by them. Rebecca Huss said she would just like the agreement to be clear. Rebecca Huss said they could just include a paragraph that includes additional assurances that the City is not responsible. John Champagne said it is more than implied in what he read.

Jon Bickford asked Mr. Foerster for his opinion. Mr. Foerster said Rebecca Huss had a good point of concern about the retaining wall and said he had not considered that, but the engineers have, and they are satisfied that won't impact the utilities. Mr. Foerster said they have an obligation under the Encroachment Agreement, and this is similar to other agreements they have drafted, that if the City has to go in there and repair or do anything to their utilities the City has no obligation to repair a retaining wall or any other structure, paving, signage or canopy and the City is indemnified. Mr. Foerster said the agreement does not contemplate anything that might fall outside the easement, but this is their property and it is the City's easement on their property, so the City is protecting our water and sewer utilities. Mr. Foerster said getting back to Rebecca Huss' point, obviously, there would be a concern about any structure that would be above the water and sewer lines and the engineers are satisfied the wall will not affect the water and sewer lines that are already in place. Mr. Foerster said he was comfortable with the language in the Encroachment Agreement. Jon Bickford said he felt like what was captured in the agreement would prevent the City from having any liability. Rebecca Huss said she hoped so, and she hoped the six-foot wall was not holding up their building and then we take down the wall and the corner of the building erodes. Jon Bickford said he did not think that was the case.

John Champagne asked if Rebecca Huss wanted a letter. Rebecca Huss said she wanted a letter from Jones and Carter saying they looked at this and the structure is not going to damage our sanitary sewer if it is built as planned and we are going to be inspecting it so that it will be built as planned. John Champagne said he was personally okay with that, but not to hold up the Consent Agenda or impede or slow down what is going on with Chick-fil-A.

Rebecca Huss moved to approve Items 1 through 4 as presented, and Item 5 with the inclusion of a note from Jones and Carter stating their comfort with the wall structure in the easement as planned by Chick-fil-A and that it will not impede on the functionality of the City's sanitary sewer. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

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

#### **7. Consideration and possible action on Department Reports:**

- A. Administrator's Report – Mr. Tramm reported the updated pricing on the Crane Cabin had been received and they will be proceeding with the work at a lower price than was approved by City Council. Mr. Tramm said the repairs were not able to be scheduled until January or February, but they are looking at being well ahead of the schedule. Mr. Tramm advised staff was already working with the Auditors getting records ready for the audit, with the onsite Audit to begin January 6, 2020. Mr. Tramm said most of the audit work is done electronically offsite.

Mr. Tramm advised staff was continuing to work on the Home Grants and making progress on the applications.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy advised the drainage project was completed on McCown Street, which was funded by the MEDC, and noted the project seems to be working well. Mr. Muckleroy said they have one slight improvement they need to make on the far south end, and it will create more useful space for festivals and such.

Mr. Muckleroy talked about the water loss, stating his Department went out on Friday, October 25, 2019, and started looking for the water leak again and at the last minute one of his crew located a leak at Kroger, just below where the new flagpole went in.

Mr. Muckleroy said there is a section of 12-inch line there that was covered up with grass and he walked it twice and just happened to hear the water bubbling out of the ground. Mr. Muckleroy said he isolated the leak and since they isolated it the numbers have steadily dropped, and they are down to 19,000 gallons a day. Mr. Muckleroy said back in June they were averaging about 55,000 gallons a day, which was the difference between production and water sold. Mr. Muckleroy said they were doing better now than what they were in June before the problem started.

John Champagne asked if Mr. Muckleroy estimated the leak was causing an amount of 35,000 gallons per day. Mr. Muckleroy said that was correct and said it came up to roughly 125 gallons per minute and said they took photos of the leak, stating it was hard to judge just by looking. Mr. Muckleroy said they were confident when they found the leak and have been confident by watching the numbers since then and it has definitely suggested that they were right. Rebecca Huss asked if the employee was walking the property. Mr. Muckleroy said yes. Mr. Muckleroy said there are certain points in the City where you know that if there is a water line leaking it is going to end up in the creek "a" and another section is going to end up in creek "b". Mr. Muckleroy said they had looked at all that area before and the only thing they ever found flowing was the creek behind Kroger, but that is where the sewer plant flows in, so they thought that flow was coming from the sewer plant. Mr. Muckleroy said in between that section is where the water was bubbling up in the grass and rolling down. Mr. Muckleroy said what they are going to do because the hydrant that is down in the grass is never going to be used so they are going to pull it out and reuse it somewhere else and cap that off so they never have to worry about it happening again. Mayor Countryman said great job and said that employee should be the Grand Marshal of the Parade. Mr. Muckleroy said the employee was treated to the VIP lunch at Ransom's that day. Mayor Countryman asked if they had canvassed the City before that time. Mr. Muckleroy said yes. Mayor Countryman thanked Mr. Muckleroy for being diligent and finding the leak. Mr. Muckleroy said his guys had been looking for the leak but when the water did not surface in any of the creeks, you begin to think there is something else going on, so they gave it one more effort. Mr. Muckleroy said he sent a message out the night before and told each of the crews that whoever found the leak the other crew had to buy lunch. Mr. Muckleroy said he was very proud of his guys and said they did a good

job. Rebecca Huss said it was nice they care so much to work that hard to do something that obviously we care a lot about, but it is nice that they do too.

John Champagne said that Memory Park said the freeboard, which is the board that is free from contact with the normal level of the water, on the bulkhead is eight to ten inches maybe when the pond is full. John Champagne asked if they added four inches to the spill off section, they could raise the total level of that pond another four inches, which would give them more water. John Champagne said it would not take much to do that. Mr. Muckleroy said that was correct. John Champagne asked if Mr. Muckleroy could consider doing that and to ask the people that work on the pond whether they could get more water in that pond, which might not be a bad thing. Mr. Muckleroy said the pond got very low for a while. John Champagne said the other thing that he wanted to mention was the Simonton House needs to be painted again. Rebecca Huss asked if that was done last year. John Champagne said it was about three years ago, stating the paint should last more than three years. Mr. Muckleroy said he would look at the building. Jon Bickford said they also need to look at the back of City Hall regarding the paint. Mr. Muckleroy said he would check it out. John Champagne said it will be cheaper to paint the Simonton House than to pull off and replace rotten boards. Jon Bickford said they did that before when they let the Simonton House sit with the boards exposed for six months or a year because they were going to get volunteers to help paint.

- C. Police Department Report – Police Chief Anthony Solomon presented his report to City Council. Chief Solomon said he has tasked each one of his Sergeants with starting some traffic initiatives. Chief Solomon said he has received several calls about different traffic areas, so they are starting to do traffic initiatives. Chief Solomon said they started a traffic initiative on Friday between City Hall and the Valero where the speed limit is 35 miles per hour. Chief Solomon said in a two-and-a-half-hour period, for the last three days, the average speed that they stopped someone was 51 miles per hour. Chief Solomon said they have made 22 stops at this location and they are going to be doing this all over the City in different locations looking for different traffic conditions and try and get people to slow down, including FM 1097 and FM 149.

Chief Solomon said the Police Department has obtained some new equipment, which was not purchased, but it is coming from the 10-33 Program. Chief Solomon said they have received to-date about \$400,000 worth of equipment that has cost them \$3,000 to get the equipment here. Chief Solomon said a lot of that equipment is being set up for emergency management and they will be sending officers for training to operate the equipment. John Champagne asked if they were all vehicles. Chief Solomon said they have one generator, which will be able to run the entire Community Center in case of an emergency as a possible shelter. Chief Solomon said they are trying to get things that they can use, which will probably be stored at the old sewer plant.

Mayor Countryman asked about the Christmas Parade route, stating that she understood the Parade was starting at Brookshire Bros. and where it is ending, but there are residents that live on the north side of SH 105 that want to drive their golf cart to get in line at Brookshire Bros, and asked if there will be an officer to allow them to cross the road to participate in the parade. Chief Solomon said there will be two officers there on FM 149 to direct them. Chief Solomon said he went out with Mr. Muckleroy and the Sergeant and they got everything set for those areas. Mayor Countryman asked if those residents in Buffalo Springs when they want to cross to get to the parade is there a place they should go to cross. Chief Solomon said the intersection of FM 149 and SH 105 is the best place for them to cross to get in line for the parade. Jon Bickford asked if the officers will be around because otherwise, it is illegal to cross at that location. Chief Solomon said that was correct, because it is not an intersection with curb-to-curb, but since this is a special occasion and they will get TxDOT approval, so they will be closing SH 105 for the parade. John Champagne said he looked at the map of the parade route and asked if they are going to have a sign diverting traffic to Lone Star Parkway. Chief Solomon said they are getting message boards and they will be put out three days before the parade starts giving people a message prior to the parade and then on the day of the parade the message boards will state the detour and they will have an officer at that location. Jon Bickford stated that they won't have any line up in Buffalo Springs.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett stated the numbers for September 2019, citations were at 196 and the amount collected was \$35,212.57, warrants collected was



\$4,143.37. Mrs. Duckett said they have been doing a lot of purging of old warrants, which are from officers that are deceased or no longer with the agency, so they have been working with the prosecutor to go through the older warrants so they can get a fresh start for 2020. Mayor Countryman asked how many of the citations are being paid online versus coming in to pay. Mrs. Duckett said they receive quite a bit of the payments online and said they just recently changed over their system to Open Edge, so everything is going to be converted to the new system. Mrs. Duckett said they have a lot of payments made online. Mrs. Duckett said the people paying online do pay a small fee to pay online, but they take a lot of payments over the phone as well because there is no charge to pay over the phone. Mayor Countryman confirmed that feature has been helpful. Mrs. Duckett said it had been helpful.

John Champagne asked Mrs. Duckett if she anticipated coming in about \$100,000 less than last year. Mrs. Duckett said that is what it looks like. Mrs. Duckett said with the turnover and things that occurred during the year, they did have a slow down in citations, but it is not all about the collections, which takes a big hit on the court and the warrants. Mrs. Duckett said with the purge of the system it will not be money collected it will be dismissals.

- E. Utility/Development Report - Mr. Tramm presented the report to City Council. Mr. Tramm said the total collection for utilities was over \$300,000 and stated it was important to note that they did several backflow installations that were approximately \$50,000. Mr. Tramm said the backflow installations included a primary part of that cost was backflow installation at the schools, so those were larger devices that had a higher price level.

Mr. Tramm stated on page 3 of the report the telephone call log still shows over 1,850 calls coming through the utility office. Mr. Tramm said they think the system may be incorrectly logging all the calls going through to that point. Mr. Tramm said the original number of 2,182 in August was because several of the calls were being routed incorrectly through the front office before they were being sent to the proper extension. Mr. Tramm said they will be following up on this information and hope to have an answer before next month's meeting. Mr. Tramm said if you do the math on that

number of calls and you stand in the front office, the phone is not ringing that frequently. Mr. Tramm said he was not saying they don't have a lot of calls and conducting business, but he does not see 1,900 calls coming through just that location. Mr. Tramm said he feels that number is still off. Jon Bickford asked if he thought they might be counting received and routing calls. Mr. Tramm said the phone in the front office he believed was considered the primary phone system, so it might just be pinging that and recording the call going through there.

Mr. Tramm commented on the water consumption at Memory Park and said that number with some of the rain recently they have gotten more water in there. Mr. Muckleroy said all irrigation is off for the winter.

- F. Water Report – Mr. Michael Williams, Vice President of Operations with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams stated they had four district alerts during September, with the first two being power failures, the third one was a genset failure that was also attributed to a power failure, and the last one was an issue they had with the bypass pump at the sewer treatment plant, which they were able to get back up and running before any excursion could occur. John Champagne asked if the power surges were separate from the surges they were dealing with last year at the well. Mr. Williams said yes, these surges are instantaneous, not ongoing over long periods of time. Mr. Williams said when they got out there with the genset issue, the water was already off and it was pumping back down. Mr. Williams said he believed that was due to an imbalance and they have not seen any strong imbalances like that this year.

Mr. Williams said the wastewater detail for the month had 4,244,000 gallons and the peak flow was August 28, 2019, at 194,000 gallons and the daily average flow was 136,900 gallons. Jon Bickford asked if it looked like the daily trend line was going down. Mr. Williams said yes, the daily trend line was trending down toward the end of the two-month period and stated that it was dry during that time. Mr. Williams advised they had the meter calibrated two months ago. Jon Bickford asked to confirm that from the numbers it shows they are still getting influx from rain. Mr. Williams said it is trending downward and said in August they did have a spike of rain at the end of the month and then they had some at the end of September. Mr. Muckleroy said on the 11<sup>th</sup> of the month they had a contractor have an issue with a bypass valve.

Mr. Williams said the effluent details show there were no excursions for the month of September with the reported seven inches of rain. Mr. Williams said the last time he spoke about a new weather station that would notify Public Works if it did go out and they have identified a new weather station and they are putting it on order. Mr. Williams said they will have a tablet in their office that will let them know when they have lost communication or battery. Mr. Williams said this will be solar-powered and only has a battery backup if there is not enough sunlight.

Mr. Williams said they had a total water source of 19,286,000 gallons, flushing of 513,000 gallons and sold 16,753,000 gallons. Mr. Williams said the accountability brought up to 90% but he found out after the fact, there was a lot of utility back billing on this, which is what reflected the higher percentage. Mr. Williams said on Mr. Burleigh's report that he gave, if you back out the utility billing it was roughly the same accountability. Mr. Williams said the bank was back billed and several other accounts. Rebecca Huss said it was still terrible so it will be possibly two months before they see a clear improvement from the water leak find. Mr. Williams said this is a half month after they had the probes replaced. Mr. Williams said they did see water on the ground, but they could not tell how much. Mr. Williams said, as he suspected, once the water hit the probe and the corroded area, it did not shut the well off until it got to a good piece of metal so it would overflow until it brought the level up, which is why they probably never saw an overflow of the plant while they were there. Mr. Williams said upon his inspection and looking further into the matter, he noticed the dampness in the ditch but no standing water in the ditch.

Mr. Williams stated this month they had 25% of water returned to the sewer plant from water sold. Mr. Williams said they had a TCEQ inspection at the water plants that went exceptionally well and said they only asked for two items, a secondary container on the polyphosphate tanks, which they obtained. Mr. Williams said they also wanted to see construction documents from Well 2, which predate him and Jones and Carter, so they are still looking for those documents. Rebecca Huss asked when Well 2 was constructed. Mr. Williams said they were still trying to figure that out, but Mrs. Vu said the well was drilled in 1984.

Mayor Countryman said today they are at 90% accountability and Mr. Williams is anticipating that number to be lower because of the billing issues, but then they should see it back up in the 95-96% range when everything gets done. Mr. Williams said he has already put his next report together and it is essentially lower, but the January report will show an increase and then from the next report on will show the real number. Mayor Countryman asked if they think there is an issue outside of the leak Public Works found. Mr. Williams said with the pictures he saw of the leak and the substantial amount of water; he did not have anything else that would conclude that they had any other leaks in the City, but they are always keeping their eyes open.

- G. Engineer's Report – Mr. Chris Roznovsky, City Engineer, presented his report to City Council. Mr. Roznovsky stated all the waterline for phases 1 and 2 for Baja Road is complete and in service and everyone is being served from the new line. Mr. Roznovsky said the contactor has a second crew out there this week working on the culverts and ditches and slope paving and should be completed very soon weather dependent.

Mr. Roznovsky advised a time extension had been submitted with the grant because if everything was not 100% complete by November 30, 2019, there is a chance the City would lose the \$350,000 grant funding. Mr. Roznovsky said they do believe the contract will be complete but not being able to control the weather and things like that, submitting the extension reduces that risk. Mr. Roznovsky said the downside of submitting an extension is that could affect scoring on future grant applications. Mayor Countryman asked how long the extension period was. Mr. Roznovsky said the extension is for three months and said the contractor is still on the same timeline, the extension is just for the City's grant time with the State. Rebecca Huss said the grant time is the original time even including the first contractors. Mr. Roznovsky said the original date was November 30, 2019, and the City lost six months going through the previous contractor issues, which was the justification to the State. Mayor Countryman asked to confirm the grant would be extended through February 2020. Mr. Roznovsky said that was correct, adding they do not expect to use that time, they want to get it all done and give the City some leeway to complete the paperwork.

Mr. Roznovsky reported that the contractor for Atkins Creek mobilized on October 14, 2019 and has all the piles installed so they are moving along. Mr. Roznovsky advised the Lift Station No. 1 replacement earlier today they finished pouring the last concrete cap to go on top of the Lift Station and when that sets, they will go back and do the final backfill that will be complete. Mr. Roznovsky said they are behind schedule and were supposed to be done on October 9, 2019, but working through issues they finally got the contract complete. Mr. Roznovsky said they have been sending emails to all the parties involved to advise them of the status. Mayor Countryman asked what held the contract up. Mr. Roznovsky said at the end of September 2019 the contractor had 90 percent of the project completed, which is what they showed in their report, but they did not have the lab out there to do the testing as he was backfilling, so they required additional testing and documentation of what was done to ensure that it was not going to cause future issues. Mr. Roznovsky said the other thing was that the concrete cap the contractor poured was supposed to be a 3-inch cap, as provided in the specifications, but as additional insurance they made the contractor put in a 6-inch reinforced cap on top of it. Mr. Roznovsky said all the results they received back from the lab they were comfortable with the fill that was done, and then as additional, they had the additional concrete placed on top. Mr. Roznovsky said this will be located in the back corner of the parking lot so they will have the six-inch concrete cap and then about seven or eight feet of compacted fill and their parking lot. Mr. Roznovsky said the 18-inch sewer line is essentially complete and they are coordinating the final testing.

Jon Bickford said before they move on from Baja Road, he asked if they are on temporary hold while the funding sources are evaluated. Mr. Roznovsky said they are going to meet with the City on Friday with staff and go over a couple of options they have discussed with additional contractors and they are going to get updated pricing and send out the Bid Package again and get the pricing in or see if they can use the County Commissioners crew to do the work. Jon Bickford asked if they ran out of work, but still had more work to do. Mr. Roznovsky said this was back in March and was related to the 2015 flooding events where FEMA had provided \$26,000 to do repairs to the road. Mr. Roznovsky said when the project was bid that \$26,000 did not cover it and this was bid last January and had to be completed after Baja Road Phase I

and II were done, and now that they are wrapping up those projects they can move forward with that piece. Jon Bickford asked if they knew how much was left to do and how much more money is needed. Mr. Roznovsky said it was bid last time and they came in around \$75,000 and in talking to the contractors today they are still in that price range if not a little higher.

Mayor Countryman acknowledged concerns of resident Mrs. Sneed regarding the Baja project and advised that she would have Mr. Roznovsky provide answers.

Mr. Roznovsky said the Chick-fil-A project plans were conditionally approved last week, subject to the Encroachment Agreement. Mr. Roznovsky said the developers on Louisa Lane are no longer interested in pursuing the land swap that had been previously discussed a year ago and they are going in a different direction with the development.

Mr. Roznovsky said the TxDOT study was still online to be completed in January 2020 with their long-term plan, and the turn lanes for the northbound side, TxDOT is preparing an appraisal and the conveyance documents.

- H. Financial Report and Quarterly Investment Report – Mr. Tramm presented the reports to City Council. Mr. Tramm said they have opened a separate account with TexPool for money that the City is obligated to payout so they can segregate those funds for items such as, sales tax reimbursement for 380 Agreements.

Mr. Tramm advised, on Page 10 of the Financial Report, under 14600 – Sales Tax, the City received an excessively high amount of money from sales tax to the point that we recognized it. Mr. Tramm said the City received approximately \$600,000 and had the sales tax consultant investigate the information and there was almost \$400,000 paid by a provider that does not have a location in the City. Mr. Tramm said they still can't get the State to say that it is not the City's money. Jon Bickford said two years later the State will come back and want the money. Mr. Tramm said that is why they are setting that money aside. Mr. Tramm said he wanted to advise City Council why they are moving the \$400,000 into TexPool. Jon Bickford asked about any interest accrued on those funds and whether the City would have to return the interest on those funds. Mr. Tramm said he was not entirely clear on that, but it was his understanding in the past it

has not been asked to return interest earned. Mr. Tramm said that by putting those sales tax funds in the separate TexPool account it is also segregating from the City's main accounts so nobody can accidentally spend the funds and then the State comes back looking for the funds. Mr. Tramm said even with two percent interest on \$400,000 will add up.

Mr. Tramm said on page 12 of the report he stated that was the money where they have written the checks for the Crane Cabin, part of the money has been paid for materials and the rest of the money is being held until the work is complete.

Mr. Tramm noted the Quarterly Investment Report has been presented at the end of the Financial Report.

Tom Cronin asked about Juan Suasso who was paid \$23,000 and \$375. Mr. Tramm said that it was related to the storage room in the Police Department. Tom Cronin asked what the threshold of the cap is when they must bid an item out because there were three expenditures to that vendor, and he was wondering if they can do that. Mr. Tramm advised the limit is \$50,000 for bids. Jon Bickford asked if that was part of the assessment of the evidence room. Chief Solomon said yes it was part of the audit assessment to expand the evidence room and storage.

Rebecca Huss moved to accept the Departmental Reports as presented. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding adoption of the following Resolution:  
RESOLUTION CASTING VOTE(S) FOR CANDIDATE(S) FOR THE ELECTION OF THE MONTGOMERY CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS.

Mr. Tramm presented the information to City Council advising the City gets up to four votes that they can either apply to solely one candidate or split them up. Mr. Tramm said only one of the candidates has experience with a City, so unless someone has a recommendation for someone else, he would recommend casting all the votes for Ron Raymaker, who is on the Shenandoah City Council.

Tom Cronin said he went through everything and he would recommend they go with Bonar Luzey, II, Bruce Tough, Barry Blanton and Guy Hancock. Tom Cronin said he liked Guy

Hancock because he was very involved with charitable things and that Board is made up of a bunch of people that have served a long time.

Rebecca Huss said she thought they should stick with their votes going to one person because otherwise it gets too scattered and they won't get anything of what we want. Rebecca Huss said she agreed that getting somebody with City experience with more of a City perspective, so she preferred going with Mr. Tramm's recommendation. Rebecca Huss said there are a lot of other entities that vote for this, so if they just have one vote for each person, then she did not feel their vote would matter, but four votes for one person would matter.

John Champagne asked Mr. Tramm if he was familiar with Ron Raymaker. Mr. Tramm said he was not familiar with any of them, but he spoke to the City Administrator with Shenandoah and he has been trying to get nominated for this position for several years, so it is not something that he is brand new to. John Champagne said his question would be why he wants to be on the Board. Mr. Tramm said he wants to be involved in the process and he feels that the City's perspective is not well represented on the Board. John Champagne asked what about the homeowner's perspective. Mr. Tramm said he did not disagree with that, but the homeowners do not get a vote. John Champagne said they represent the homeowners. Mr. Tramm said the reason he made the recommendation was solely because there is no one else there from a City perspective.

Rebecca Huss said she would be okay going with someone else, but she would like to place all the votes with one person. John Champagne said he could see that.

Jon Bickford said what Mr. Tramm brings up is interesting because there is a lot of experience, and the cities do need to be represented. Tom Cronin said he would recommend Guy Hancock because he is not really active and he has charities that he is involved with, he is in the HVAC business and he gives a lot of time and support to veteran organizations and he likes that perspective.

Mayor Countryman asked how much time a person would spend working on this Board. Mr. Foerster said he would assume they meet one time a month, and they might be involved with some of the appellate process in the summer. Mr. Foerster said Mr. Hancock also served as the President of the Fire District for many years.



After discussion, Tom Cronin moved to adopt the Resolution casting all four (4) votes for candidate Guy Hancock for the election of the Montgomery Central Appraisal District Board of Directors. John Champagne seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action to call a Public Hearing to be conducted by City Council, acting as the Zoning Board of Adjustment, regarding a side building line variance of nine (9) feet and a rear building line variance of four (4) feet for the property located at 607 Worsham Street, as submitted by owners Dan and Christine Walker.

Mr. Tramm advised this item was on the agenda because a couple of months ago City Council chose to take on the actions of the Board of Adjustment. Mr. Tramm said this item is regarding a temporary structure being put on the property and being placed over two of the building lines, in the rear and side of the property, which would require a variance. Mr. Tramm stated this was not looking for a decision tonight but need City Council to call the Public Hearing so they can notify the surrounding residents within the perimeter to the property.

Rebecca Huss asked if they need to appoint City Council as the Board of Adjustment and unappoint the current Board of Adjustment members. Mayor Countryman advised that had already been done.

John Champagne moved to call the Zoning Board of Adjustment Public Hearing to be held on December 10, 2019, at 6:00 p.m. at City Hall. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

10. Consideration and possible action to call a Public Hearing regarding a Special Use Permit for a short-term cottage rental project located at 1062 Clepper Street as submitted by owners Larry and Beverley Jacobs.

Mr. Tramm advised on September 24, 2019, City Council conducted an informal process during the Council Meeting, when Mr. Jacobs was present to discuss the project. Mr. Tramm advised the information was referred to the Planning and Zoning Commission and is now prepared to come back to City Council. Mr. Tramm said they need City Council to call a Public

Hearing preferably on December 10, 2019, so they can hear the report from the Planning and Zoning Commission and City Council can move forward.

Jon Bickford moved to call the Public Hearing to be held on December 10, 2019, at 6:00 p.m. to be held at City Hall regarding a Special Use Permit for a short-term cottage rental project located at 1062 Clepper Street, as submitted by owners Larry and Beverley Jacobs. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action regarding acceptance of College Street Right-of-Way donation letter agreement as submitted by Troy K. and Lisa D. Walker.

Mr. Tramm said this is a portion of College Street that the City thought was a City street, but it was a portion of someone's private property. Mr. Tramm said the City was already prepared to maintain the property and the owner would like to get the property out of his name because the property is a street and donate the property to the City. Mr. Tramm said the owner does want to place a couple of conditions on the property, such as access to his fence from the right-of-way and the City would place culverts at entrances and will not require a permit, and all existing driveways and entrances be grandfathered and allowed to remain as they are. Mr. Tramm said he went to the location and said he did not see any reason why any of those would have to be adjusted in his opinion.

Jon Bickford moved to accept the College Street Right-of-Way Donation Letter Agreement as submitted by Troy K. and Lisa D. Walker, based on Mr. Tramm's information. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding solicitation of bids for the City Mowing Contract.

Mr. Muckleroy advised it has been three years since they went out for bid on the Mowing Contract on December 1, 2019. Mr. Muckleroy said they have a couple of areas that have been added over the years including Lone Star Bend and the Hills of Town Creek area. Mr. Muckleroy said he would like to clean all the information up and get a new bid on everything, and he would also like to split the bids and separate out the amenities they call grounds maintenance items, such as the parks, City Hall and the Community Center. Mr. Muckleroy

said he wanted to separate those out and give a smaller company a chance to come in and bid and he felt they could get a little more attention to detail at the parks. Mr. Muckleroy said he felt that it was time they went out for bids to see what they can get.

John Champagne moved to authorize the solicitation of the Mowing Contract bids immediately. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Rebecca Huss asked Mr. Muckleroy if he was prepared to get the bids. Mr. Muckleroy said he was ready with the materials.

13. Consideration and possible action regarding renaming Wade Street.

Mr. Tramm advised this item dates back to 2016 when the City acquired the land under Wade Street. Mr. Tramm said he understood there was some discussion about the potential of the renaming of the street. Mr. Tramm said in reviewing the minutes from that time, City Council did not originally take action, which means he can't rename the streets on his own it requires City Council action.

Rebecca Huss said it was her understanding that was what the younger Mr. Washington asked for as part of the transaction and City Council was amenable to it during that time.

Rebecca Huss moved to rename Wade Street to L.A. Washington Street forthwith. Jon Bickford seconded the motion.

Discussion: Mr. Foerster said he had no objection to changing the street name but asked if there were any people on that street that would be affected by this name change. Rebecca Huss said the other Mr. Washington, through the City's dilly-dallying, we managed to wait until he passed away before we got around to renaming the street. Rebecca Huss said no, there is no one who lives on the street any longer. Mr. Foerster said that was his only question. Rebecca Huss said Mr. Washington would have been quite happy had the City named the street L.A. Washington Street earlier.

The motion carried unanimously. (5-0)

Mr. Tramm advised he would see that staff gets all the necessary work done regarding renaming the street.

14. Consideration and possible action to authorize City Administrator to issue Requests for Qualifications and/or solicit bids for the following:

- A. Bond Financial Advisor;
- B. Water and Wastewater Operations Company;
- C. City Attorney;
- D. Auditor;
- E. Master Drainage Study of Town Creek Watershed;
- F. IT Provider;
- G. Financial Consultant; and
- H. City Engineer

Mr. Tramm said the reason this is on the agenda is that he wanted to have a conversation with City Council regarding every consultant the City has. Mr. Tramm said he has been with the City four months and said he has learned a lot and is sure that he will continue to learn a lot for quite a while. Mr. Tramm said each of these consultants provides services to the City and said he wants to know how City Council feels with regards to each of these consultants. Mr. Tramm said it has been some time for all these consultants and said he wanted to make sure City Council was comfortable with them or do they feel we need to look at different options.

Mr. Tramm said during his career he came from the contracting side, he did not always from the government side, he provided the services. Mr. Tramm said it is a very important relationship to have, and said when you have a good relationship with consultants they are not just doing the job for you, they are anticipating your needs and they know how to expect how you will respond. Mr. Tramm said there is a lot of give and take in a relationship with a consultant. Mr. Tramm said where you have a good solid relationship with a consultant, he would congratulate you for having that because that is where you want to be, but not every consultant relationship is like that. Mr. Tramm said over time we know inflation tends to creep up and a contract has an automatic five percent raise every year, those costs creep up. Mr. Tramm said he felt it was healthy every couple of years to go back and look at the

consultants. Mr. Tramm said he was not saying throw all these consultants out, he is just coming to City Council to ask if there are any that they feel we need to look at and consider alternatives or you are unhappy with, or even if you are happy with them and we need to take a closer look at the services those are the things that in his position as advising City Council he feels they should be looking at more than just maintaining with anyone. Mr. Tramm said he was thinking it is part of a bigger process to be looking at all these consultants.

Mr. Tramm said he did have one exception, under IT Provider, they did receive a notice of cancellation of the contract with the current IT Provider. Mr. Tramm said he was not entirely clear why they chose to cancel the contract. Mr. Tramm said staff has already started the process of collecting contacts on that service.

John Champagne said, in his mind, this is why City Council hired Mr. Tramm to evaluate not only the vendors but the employees and the entire process of the City.

John Champagne moved to consider taking action to authorize the City Administrator to issue requests for qualifications or to solicit bids for the following:

- A. Bond Financial Advisor;
- B. Water and Wastewater Operations Company;
- C. City Attorney;
- D. Auditor;
- E. Master Drainage Study of Town Creek Watershed;
- F. IT Provider;
- G. Financial Consultant; and
- H. City Engineer

Tom Cronin seconded the motion.

Discussion: Jon Bickford said he thought they should look at this being an automatic process to be done every three years for all our consultants. John Champagne said he was amenable to that. Mr. Tramm said he would not have an objection to that. Mr. Tramm said he had a conversation with the City Attorney, and he advised that another District out there does this process every three years. Mr. Tramm said he felt that it was something they could bring up

every three years. Jon Bickford said some of the contracts might be one year and some might be three, but he felt they should have a policy. Mr. Tramm said they could come up with a policy and he felt it was part of government evaluating itself. John Champagne said City Council is evaluated every two years. Mr. Tramm said he is evaluated at least every year. Rebecca Huss said some of this needs to be prioritized a little bit more quickly than others. Mr. Tramm said he certainly could not bring it all to City Council at once, he would need to move methodically.

Rebecca Huss said the Master Drainage Study is now six weeks behind because they talked about it at the beginning of October and obviously the second week of October they got the lovely missive from Jones and Carter extorting the City for \$10,000 if we went with another engineering firm, which she thought was an interesting comment given the issue of looking at all of our services. Rebecca Huss said the engineering firm is the City Engineer and the professional and ethical obligations are to the City and its taxpayers, not to Jones and Carter. Rebecca Huss said when you are working per hour that is how long it takes to review something. Jon Bickford asked if this was part of the motion. Rebecca Huss said it is part of the discussion. Mr. Tramm said with regards to the Master Drainage Study, that is the one item that is being worked on because he anticipated it would be a likely one because of previous discussion and will be the very first RFQ. Rebecca Huss said to her the letter from Jones and Carter brings up an issue if they go forward with another engineer at what point are we going to look at that and who is looking at what and double-checking what. Rebecca Huss said obviously Jones and Carter is the Engineer of Record on the GLO Project for which the Drainage Study is being done, but she feels this letter is done to try and keep a stranglehold on the millions of dollars of projects that the City has, which is not the job of the City's Engineer. Rebecca Huss said a lot of this needs to happen very expeditiously. Rebecca Huss told Mr. Tramm to prioritize, but it all needs to be done posthaste.

John Champagne said he appreciates Rebecca Huss' opinion, but he was not sure her interpretation of the possible motivation of the City Engineer was correct. John Champagne said he just wanted to say that, stating he was not going to argue about it. Rebecca Huss said she hopes it is not, asking if John Champagne remembers how much it cost to do the other bid drainage study. John Champagne again said he just wanted to make his statement and he did not want to discuss it. Rebecca Huss said she hoped not, but it was a breach of trust.

The motion carried unanimously. (5-0)

**EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

15. 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, including pending claims and contracts; and
  - b) Section 551-074 – Personnel Matters – Police Lieutenant Leave Benefits

Mayor Countryman adjourned into Closed Executive Session at 7:27 p.m.

Tom Cronin left the meeting at 7:50 p.m.

16. Reconvene into Open Session.

Mayor Countryman reconvened the Regular Open Session at 8:00 p.m.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

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

Jon Bickford moved that after consultation with the City Attorney that City Council agree to move forward with the supplement to the lease agreement between the City of Montgomery, Texas and Tom Cronin.

John Champagne asked if Rebecca Huss would second the motion. Rebecca Huss stated she was against the action. John Champagne asked why. Rebecca Huss asked if he wanted her to say it out loud. John Champagne said Rebecca Huss just went in there and said that is what she wanted. Rebecca Huss said she stated this was the Supplemental Lease Agreement. Rebecca Huss said she thought it was improper for a sitting City Councilperson to get benefits from the City, but she still thinks it is better than a bad deal, which is what it was. John Champagne asked that they vote. Rebecca Huss said that is why they do not need her.

John Champagne seconded the motion, the motion carried with 3-Aye votes and 1-Nay vote by Rebecca Huss. (3-1)

Jon Bickford moved to extend the City benefits for 90-days for Lieutenant Belmares. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

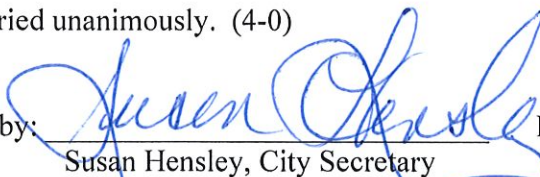
**COUNCIL INQUIRY:**

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**

John Champagne moved to adjourn the meeting at 8:02 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: 12/10/19  
Susan Hensley, City Secretary

  
Mayor Sara Countryman

