

**MINUTES OF REGULAR MEETING**

**June 11, 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  
Anthony Solomon Police Chief  
Dave McCorquodale Assistant to the City Administrator  
Jack Yates Consulting Administrator

**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.

There were no comments made.

**CONSENT AGENDA:**

3. Matters related to the approval of minutes of the Public Hearings and Regular Meeting held on May 28, 2019.

Tom Cronin advised T.J. Wilkerson was not present at the May 28, 2019 meeting so the minutes will need to be corrected to show he was absent.

John Champagne moved to accept the minutes as presented with the amendment by Tom Cronin. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

**CONSIDERATION AND POSSIBLE ACTION:**

4. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, TO ADOPT NEW BUILDING PERMIT AND INSPECTION FEES RELATED TO ALL RESIDENTIAL BUILDINGS AND STRUCTURES; TO ADOPT NEW PERMIT AND INSPECTION FEES FOR MECHANICAL, ELECTRICAL, AND PLUMBING RELATED TO ALL RESIDENTIAL BUILDINGS AND STRUCTURES; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Mr. McCorquodale reviewed HB 852, which was signed by the Governor, and does not allow a municipality to charge for residential, in particular, single-family residential permit fees, based on the valuation of the structure. Mr. McCorquodale advised that cities have been reviewing how they structure their fees, as stated in his memo, a general overview based on a square foot method, which is what most cities are going with. Mr. McCorquodale said there was a problem that was pointed out that in trying to determine a flat rate, such as \$.60 cents per square foot, it was noticed the fees got large on larger homes. Mr. McCorquodale said they did not feel like that was representative of the work that was going into the job. Mr. McCorquodale said the current fees the City uses were adopted in 1996 and have not been raised since that time. Mr. McCorquodale said the fees they are proposing have gone up

slightly from those fees, but they feel the fees are covering the costs. Mr. McCorquodale said they are using a tiered rate, whereas the home gets larger, the fee per square foot gets smaller.

Rebecca Huss said given the expeditious manner in which they are putting the information in front of City Council, she asked if Mr. McCorquodale had any comparisons of what other cities are doing. Mr. McCorquodale said several that they know, such as Hunters Place Village, out of Houston, is using \$1.20 per square foot as a flat rate and said that rate closely mirrors what they are charging today on an evaluation basis. Mr. McCorquodale said they have heard the numbers \$.75 cents per square foot being used as a flat rate, but our rates really track the initial work that they were doing while it was still based on valuation, because they were looking at taking the permit fees from about \$650 on a 1,800 square foot home to \$900.

Tom Cronin asked if Mr. McCorquodale was comfortable with what he came up with. Mr. McCorquodale said he was, and mentioned that Mr. Rick Hanna, City Building Inspector, and Autumn Redman, Utility/Permit Clerk have put a lot of work in determining the cost the City incurs to permit and inspect homes and what is a bearable number. John Champagne asked if Mr. McCorquodale had an idea what the base fixed cost was for the City to look at a house. Mr. McCorquodale said it would depend on Ms. Redman's time, the cost of the facility, and said he has not really put those numbers to those specific costs. John Champagne said he was looking at less than 1,000 square feet and the total dollar amount as he sees it, is \$800. Mr. McCorquodale said the cost went down to \$770. John Champagne said he was assuming that covers the City's fixed cost because there is a fixed cost. Mr. McCorquodale said yes. John Champagne said in his mind, the minimum fixed cost should have been established first and he was assuming that was done. Mr. McCorquodale said in looking at the hours again, in terms of the number of permits and inspections, Ms. Redman will have three hours of staff time for each permit. Mr. McCorquodale said the inspection fees charged to the City come out of the permit fee. Jon Bickford asked what the Inspector charges for inspections. Mr. Hanna advised he charges \$75 for building permit inspections and \$50 for mechanical, plumbing, and electrical permit inspections. Jon Bickford asked how many inspections are required for a typical residential home. Mr. Hanna said there were typically five of the building permit inspections and two to three out of each for the mechanical, electrical and plumbing permits. Mr. McCorquodale said the spreadsheet that has been provided shows the breakdown of what the City nets out of each one of the tiered structures. Rebecca Huss said it would be the City's

gross because they are not subtracting Ms. Redman's hours and the costs for the City's office space.

John Champagne asked if these are competitive numbers in comparison with other municipalities. Mr. McCorquodale said that was correct.

Jon Bickford moved to adopt the Ordinance as presented to adopt the new building permit and inspection fees related to all residential buildings and structures. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said she would like to say she appreciated all the time and work they put into this because it is a lot of work to keep the City open for business.

John Champagne asked to confirm that the City is issuing permits as of today. Mr. McCorquodale said that was correct.

The motion carried unanimously. (5-0)

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 98,"ZONING," FOR THE ZONING CLASSIFICATION OF THREE PROPERTIES IN THE ZACHARIAH LANDRUM SURVEY, ABSTRACT 22 IN MONTGOMERY FROM AN "ID" INDUSTRIAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; RECLASSIFYING THREE PROPERTIES IN THE ZACHARIAH LANDRUM SURVEY, ABSTRACT 22 IN MONTGOMERY FROM AN "ID" INDUSTRIAL ZONING DISTRICT TO A "R-1" SINGLE FAMILY RESIDENTIAL ZONING DISTRICT; RECLASSIFYING ONE 2.25-ACRE PROPERTY IN THE ZACHARIAH LANDRUM SURVEY, ABSTRACT 22 IN MONTGOMERY FROM AN "I" INSTITUTIONAL ZONING DISTRICT TO A "R-1" SINGLE FAMILY RESIDENTIAL ZONING DISTRICT; RECLASSIFYING SIX PROPERTIES IN THE OWEN SHANNON SURVEY, ABSTRACT 36 IN MONTGOMERY FROM A "R-1" SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; REALIGNING THE "B" COMMERCIAL AND "R-

2" MULTI-FAMILY RESIDENTIAL ZONING DISTRICT BOUNDARIES IN A 30.84 ACRE TRACT IN THE JOHN CORNER SURVEY, ABSTRACT 8 IN MONTGOMERY BY CONSOLIDATING LIKE DISTRICTS; RECLASSIFYING CERTAIN LOTS IN THE HILLS OF TOWN CREEK SUBDIVISION, SECTION 2, FROM A "B" COMMERCIAL ZONING DISTRICT TO A "R-1" SINGLE FAMILY RESIDENTIAL ZONING DISTRICT; AND RECLASSIFYING A 0.5-ACRE TRACT IN THE OWEN SHANNON SURVEY, ABSTRACT 36 IN MONTGOMERY FROM AN "I" INSTITUTIONAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE.

John Champagne asked why all these properties were combined. Mr. McCorquodale said it was for the simplicity of not having to pass each individual Ordinance, stating they could pull any of these sections from this Ordinance.

Mr. McCorquodale said he wanted to call attention specifically to 712 Community Center Drive, which is the one from the Planning and Zoning Commission's Final Reports and was the only one that was not recommended to be reclassified out of concerns that were made by an adjacent homeowner regarding the effect of having a commercial property on Community Center Drive and what it might do to the integrity of the neighborhood. Mr. McCorquodale advised these were concerns staff had as well. Rebecca Huss said that was not, to be fair, concerns about the present use as a home-based business, it is concerns about what an unfettered commercial property, which could include a gas station, office park, etc., that is included in the permitted uses. Mr. McCorquodale said the uses that are allowed for commercial property are rather broad, and not rezoning the property would not affect the current Special Use Permit. John Champagne asked which Exhibit this was related to. Mr. McCorquodale said it was Exhibit "G." Rebecca Huss asked if there was a Special Use Permit attached to that property. Mr. McCorquodale said a Special Use Permit was granted years ago and did not know if anything was given to change that. Mr. McCorquodale said he would have to look the Permit up to see if there were conditions that were required to be reapproved. Rebecca Huss said she was wondering if that Permit might solve all of the concerns by the owner of the property for her business, the concerns of City Council, and the concerns of the neighbors because she would like to use the permit as she is currently using it or even to expand

it a little bit, but not turn it into a gas station. Rebecca Huss said the Special Use Permit seems like the easiest way.

Tom Cronin said under the Texas Cottage Food Law, the City can't regulate, and zoning can't tell her whether or not the resident can have a business there. Rebecca Huss said a Special Use Permit would give her, without concern for signage, a permit detailing what is or is not allowed. Rebecca Huss said if they expand the action to a Special Use Permit it would give the homeowner certainty because it is written out specifically to give her more leeway than maybe what she has right now. John Champagne asked if it would remain zoned as it is. Mr. McCorquodale said yes, it would be a continuation of the use, which is single-family residential. Rebecca Huss said if there was something specific the owner wants, she does not have or feels she is at risk of losing, then they could define that in the Special Use Permit. John Champagne asked if the zoning would remain unchanged. Rebecca Huss said that was correct. Jon Bickford said once you open the door to commercial, it is open. Mr. McCorquodale said that was correct and asked if City Council wants him to look at the Special Use Permit to work with the homeowner. Jon Bickford said that sounds like that would be a good answer.

John Champagne asked if this was the property where the lady came to the last meeting and voiced her concerns, and as he remembers, Mrs. Easley indicated that at least she did to him, the Park was a source of problems, so, in his mind, if we reclassify all these requested properties to commercial, how does that help that situation. Rebecca Huss said they are not on the same road. John Champagne stated the backs of them are backed up to the Park. Rebecca Huss said that is a separate issue that they ask for solutions from the residents or Mrs. Easley.

John Champagne said he thought Mrs. Easley is for changing her zoning designation. John Champagne said if there is a problem with the Park and then a gas station opens up, and who knows what else, how does that help Mrs. Easley's situation because the park backs up to her home. T.J. Wilkerson asked if Mrs. Easley might have a Special Use Permit. Mr. McCorquodale said she has a Special Use Permit to operate a home-based business out of her kitchen, which is a commercial kitchen. John Champagne said he did not think this affects Mrs. Easley at all because she has been running her business for 10 years. Mr. McCorquodale said that was correct, and said the rezoning of the property, whether or not it went to commercial, while he could not speak for the family, he thought the family was looking more

at the legacy of the property than the current use of the property. John Champagne said if the consensus is they want to turn the property to commercial, they can do it. Rebecca Huss said it would not be great for the rest of the neighborhood because the back portion is residential. John Champagne said all the property is residential. Jon Bickford said he does not like going from residential to commercial anywhere. John Champagne said the property is all residential. Rebecca Huss said the property is all residential, narrow, and crowded with the school. Jon Bickford said there is also a cemetery across the street from three of the properties.

Mr. McCorquodale said the Zoning Code when a non-residential use abuts a residential use, he is almost certain, it is a 25-foot side buffer or rear buffer that must have a visual barrier, whether it is landscaping or fencing on the non-residential side.

John Champagne asked about the area being a mecca for firewood sales and would it be possible for firewood to be sold in those locations if the zoning was changed to commercial. Mr. McCorquodale advised firewood would be able to be sold at those locations. Rebecca Huss said they were talking about Community Center Drive and there is no firewood being sold at that location. John Champagne said he was looking at Exhibit "G" that includes 35302, 35301 could be commercial and anything commercial can go in there. John Champagne said if all the residents there are good with that use, they can do it. John Champagne said everything is residential around that location, and there is a school and a park. John Champagne said there is commercial next to Cedar Brake Park and it is not a problem. Rebecca Huss said, in that case, the City has been fortunate in the choices that the developer has made, with the commercial that went in beside Cedar Brake Park. John Champagne said philosophically he does not like going from residential to commercial, he has less of a problem going from commercial to residential when the property is surrounded by residents.

Mr. McCorquodale said one of the things that makes these sites a little unique is they have to factor in the two roadways because they know those roads are going to grow, not in the immediate future, but the traffic along those roads has increased in the past five to ten years.

Jon Bickford said he wanted to ask Mrs. Easley if it would solve her problem by granting her a Special Use Permit for whatever she wants to do and asked if she would prefer that or would she rather rezone. Jon Bickford said they have one property owner with a concern on the

rezoning and said maybe the Special Use Permit would solve both problems. Rebecca Huss said the City has already spent the money on the Public Hearings and asked if they could delay making the decision until later. Mr. McCorquodale asked Mr. Foerster if there was a time limit on City Council deciding on the rezoning, with respect to the Public Hearings. Mr. Foerster advised that City Council could table the action. Rebecca Huss said it would be the decision for Mrs. Easley's property, which they could call out and decide later.

Mr. Foerster said City Council could amend the Ordinance by striking that portion of the Ordinance that relates to the issue that is in question and pass the rest of the Ordinance. Mr. Foerster said City Council could come back with a new Ordinance if they need to, to address the zoning of this property. Rebecca Huss asked if the Public Hearings they have already called and held, which included that parcel of property, will still be good. Mr. Foerster said yes, in his opinion the Public Hearings would still be good.

John Champagne asked what the consensus regarding this zoning was. Tom Cronin said it was to remove that parcel from the Ordinance and follow what Mr. Foerster advised. John Champagne asked what the consensus was on City Council and whether they would want to go commercial for that parcel. Tom Cronin said according to what he had, Mrs. Easley is operating a business, but it is a Texas Cottage Food Law, which was established in 2013 that provides zoning and has nothing to do with her and she does not have to have a Special Use Permit according to this law. Tom Cronin said he was not an attorney, but he had read this information online. Tom Cronin said he would say go on with the rest of the zoning and extract this parcel, and then to be fair to Mrs. Easley, the City would do more research to make sure we are being fair to her and everyone else. John Champagne asked if Mrs. Easley requested at the last City Council Meeting to go commercial. Tom Cronin said he did not see what benefit that would be to Mrs. Easley. John Champagne said he heard different things because she never planned on doing anything other than catering, and he heard it would not necessitate any additional changing to her building, parking, or anything like that, so he is a little bit lost. Rebecca Huss said if they can pull this parcel out of the Ordinance, with no extra cost to the City, and no problems to anyone else, then maybe they can work out something that works for everyone. John Champagne said he just hates dragging our feet. Rebecca Huss said they can get everything else done, and if they can, benefit everyone.



Mr. Foerster said City Council could table this until the next City Council Meeting in two weeks. Rebecca Huss said she thought they should get everything else done so they don't go through the whole thing if there is just one parcel in question. Jon Bickford asked if that would hold up Mrs. Easley from doing anything. John Champagne said no it would not. Rebecca Huss said this was a City initiated zoning, so she did not think any of the landowners had any particular plans.

Tom Cronin moved to adopt the Ordinance, but extract the part of the Ordinance that states "reclassifying a .5-acre tract of land in the Owen Shannon Survey, Abstract 36 in Montgomery from I-Institutional to B-Commercial Zoning."

Mr. Foerster asked if this was consistent with Mr. McCorquodale's understanding. Mr. McCorquodale said yes it was. T.J. Wilkerson asked if everyone received a letter about this information. Mr. McCorquodale said everyone within the red lined notification area was sent a letter.

Rebecca Huss seconded the motion.

Discussion: T.J. Wilkerson said it was his understanding that City Council is going to wait on information regarding the Special Use Permit. Mr. McCorquodale said he did not know the latest results of the laws that were passed in the House, but he knows the Texas Cottage Food Industry Laws are getting stronger, so to Tom Cronin's point, Mrs. Easley might not need a Special Use Permit at all. Rebecca Huss said she might need one for signage or parking. John Champagne said that would be a whole different issue. Rebecca Huss said maybe they could have something that would work in the neighborhood but would give her a little extra flexibility without causing any infringement upon the neighborhood.

Mr. Foerster said for clarification for the record, he concurred with what Tom Cronin said, and he would suggest the minutes reflect we are tabling that portion of the Ordinance that is being extracted rather than denying it, so that will allow the Public Hearings to still be enforced with respect to that.

Rebecca Huss asked if the motion and the second needed to concur with Mr. Foerster's interpretation specifically. Mr. Foerster said yes, only to the extent they are amending it to state the portion of the Ordinance being extracted will be tabled until the next meeting.

Tom Cronin stated he would amend his motion to state the portion of the Ordinance being extracted will be tabled until the next City Council Meeting. Rebecca Huss amended her second, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding authorizing the purchase of two (2) police vehicles.

Police Chief Anthony Solomon presented the information to City Council. Chief Solomon stated the purchase of these two vehicles would be the replacement of two vehicles which were involved in accidents. Chief Solomon stated both of those vehicles had reached their eligibility of criteria when it comes to either four years or 80,000 miles. Chief Solomon said they are going to extend that criteria because they have one officer who drives each car, which is a good thing because it keeps down maintenance on the vehicles and keeps them from running 24-hours a day. Chief Solomon said they have one vehicle that is a 2017 that has 12,000 miles on it and if that vehicle was running twice a day, they would have 24,000 miles on it at this point. Chief Solomon said they are asking to replace these two vehicles that were lost in the accidents.

Jon Bickford asked how they can save \$2,400 if they do this now versus waiting. Chief Solomon said in the past, they were purchasing vehicles that were \$32,200 and then spent another \$17,000 to have those cars equipped. Chief Solomon said the same place they have been purchasing those vehicles will equip those vehicles for \$40,800, and then they spend another \$6,000 to get the rest of the equipment installed. Chief Solomon said they will go from spending \$51,000 to \$46,000 to \$47,000. Mayor Countryman said that was good.

Tom Cronin asked what make and model of vehicles would be purchased. Chief Solomon said they are going with the Chevrolet Tahoe's. Rebecca Huss asked if that is what they have been purchasing over the last few years. Chief Solomon said that was correct. Jon Bickford asked if those funds were budgeted for. Chief Solomon said yes. Rebecca Huss said the Capital

Projects Fund is essentially accounting for depreciation of the vehicles and they have been saving up for things that have been used up.

Jon Bickford moved to authorize purchasing the two new Police vehicles. Tom Cronin seconded the motion.

Discussion: Rebecca Huss said Chief Solomon had a comment. Chief Solomon advised they were talking about the criteria and eligibility of cars and said right now they have been using four years and 80,000 miles, and said with the new Tahoe's, with the research they have done, they can go six years. Chief Solomon said with the vehicles they have; they have some 2013's right now that are at 67,000 miles so they can move further to a six-year and 90,000 miles on each one of the vehicles. City Council concurred that would be great. Rebecca Huss said in this one motion, Chief Solomon has saved the City \$15,000 - \$20,000 per vehicle, by increasing the time frame two or three years which is a lot of extra money saved.

The motion carried unanimously. (5-0)

7. Consideration and possible action regarding declaring the following surplus property and authorizing the offering for sale:
  - a. 2013 Dodge Charger, VIN #1682; and
  - b. 2011 Dodge Charger, VIN#1802

Chief Solomon advised those are the two Chargers they have in the parking lot that have gone way past their usage. Chief Solomon said they can take each one of those vehicles, sell them, and convert that into cash and take the vehicles off the City's insurance policy. Mayor Countryman asked the Chief how much he thought they would be able to get for the vehicles. Chief Solomon said if they go to an auction, they might go for \$1,100. Chief Solomon said he had a gentleman call him the other day stating he likes these types of vehicles and he might be willing to pay \$2,000, but they will have to see what they get in.

Jon Bickford moved to declare the vehicles surplus property and authorize offering them for sale. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding voluntary inclusion into the Corridor Enhancement District.

Mr. Yates presented the information to City Council, advising HB 2439 was passed and states the City can't enforce a prohibition of a building product or material that is otherwise approved by the National Building Code. Mr. Yates said for Montgomery, this means the dismissal of the Corridor Enhancement District building standards, except in the Historic District.

Mr. Yates said he was originally going to propose to City Council the voluntary aspect of being in a District that allows the different building standards, but since the time when he wrote his memo, he has received an opinion from the City Attorney that with the possible exception of the Historic District, each property owner may voluntarily agree to the higher standards. Mr. Yates said however, there is no legal process by which the City can create a District by which the properties in the District must comply. Mr. Yates said he thought HB 2439 prohibits that, so each property owner has the option to adopt the higher standards of the property. Mr. Yates said what it says to him, is that at best, the City would wind up with a checkerboard effect, where certain areas would give approval.

Mr. Foerster stated he had just come from a meeting with the City of Conroe with their City Attorney and Mayor because they are looking at this information from a different angle. Mr. Foerster said they are looking at what might incentivize property owners, and in our case in the Corridor Enhancement area, and to provide some kind of benefit in the form of tax rebates or building permit waivers, where people say they want to buy into this because it is going to save them money. Mr. Foerster said they have not gotten very far with the information, but that was the process of discussion at the meeting he attended in Conroe. Mr. Foerster said next week he will be at a City Attorney's Conference for several days and said this will be a topic of discussion there and he might come back with other information, but he thinks if they can wave a carrot in front of a hammer, they may be able to develop a program that will encourage the Corridor Enhancement, not only there but in future areas. John Champagne said they were talking about 380 Agreements and that type of thing. Mr. Foerster said they are not necessarily 380 Agreements, there could be a City Ordinance that will allow them to say they see the value to the community to have a certain appearance along the corridors and for property owners that want to buy into that and they could provide waivers of fees or permits or incentives. John

Champagne said it would have to be a hefty waiver of fees to offset the level they have become accustomed to through the Code. Mr. Foerster said they have one issue right now where one property has an \$18,000 improvement for them to meet the requirements of the Corridor Enhancement District. John Champagne said he thinks this is a great idea, but his thought is other than tax abatement, how do you get to that cost. Mr. Yates said that was his thought also, which is the reason he said in his memo the abatement would have to be almost \$300,000 to create enough of a tax break to cover the building. John Champagne said he was not opposed to that; he is just saying it is going to take more than a permit fee and a couple of other things to get that done.

Jon Bickford asked if it made sense to table this item until Mr. Foerster comes back from his conference. Mr. Foerster said he did not think they can act on this matter tonight, there has to be a lot more thought on the matter and they need to provide City Council something they can look at. Mr. Foerster said they might want to go to some of the property owners and ask what would work for them and get some input from them. Rebecca Huss said it does not make sense to spend money on the legal format that people can opt out of.

T.J. Wilkerson asked when people bring their plans into the City, who approves those plans. Mr. Yates stated the Building Inspector and the City Engineer review the plans, and then ultimately the City Administrator approves the plans. Mr. Yates said this was the Building Inspector. T.J. Wilkerson asked if they could have caught this during the plan review. Jon Bickford said there is a limit as to what you can require them to do.

Rebecca Huss asked if this applied to the Historic District. Mr. Yates said a building located in a place or area designated for its historical, cultural, or architectural importance and significance can be regulated. T.J. Wilkerson asked what the Historical District consists of and how far does it go. Mr. Yates said Hodge Podge Lodge to Cedar Brake Park on the north side of SH 105 is in the Historic District with a couple of variations, such as the front of Luisa Street to Houston Street and south of Caroline Street not being included in the Historic District. T.J. Wilkerson asked if any property going north was included in the Historic District. Mr. Yates said only up to College Street, but not north of College Street. Mayor Countryman asked if they could expand the Historic District and would that help. Mr. Yates said yes, but it must be approved by the Planning and Zoning Commission and City Council, plus it is supposed to be

based on specific historical information. Mr. Foerster said the statute says the District must be in place before April 1, so the answer to the question is they can always expand the Historic District, but it won't supersede this statute.

T.J. Wilkerson said Montgomery was founded down by Town Creek and asked why that is not in the Historic District. Mr. Yates said when they established the Historic District, originally it was quite an issue as to what was inside and outside the District. Mr. Yates said there were some areas that did not want to be in the Historic District. Mr. Yates said now the Historic District has withstood the test of time. T.J. Wilkerson commented they have some Historical churches and cemeteries, and they are still not part of the Historic District. Mr. Yates said that is correct. Jon Bickford said that does not mean you can't add them into the District. Mayor Countryman asked when the Historic District happened? Mr. Yates said it was adopted in 2002 or 2004. Rebecca Huss said as a side note, Mr. Philip LeFevre's Planned Development District still is enforce, which is another way to affect what happens along SH 105, because he has architectural control over what he sells, so he adheres to our rules, but he also has his own rules as well. Rebecca Huss said that would be a possible way around the problem, when Mr. LeFevre sells, for him to keep in mind the City has lost architectural control, so he might want to retain his control. Jon Bickford said he is proposing they wait and get more information to see how this works out.

Jon Bickford moved to table any action regarding voluntary inclusion into the Corridor Enhancement District until we gather some more information. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

9. Report regarding the Tree Ordinance.

Mr. McCorquodale presented a summary of the drafted Tree Ordinance with some site examples. Mr. McCorquodale said the main difference in the draft Ordinance and the previous Ordinance is they use a canopy coverage as opposed to a caliper inch to quantify the number of trees on a site. Mr. McCorquodale said a certain amount of a site must be covered by the canopy of a tree in order to qualify what the coverage is.

Mr. McCorquodale said the existing Ordinance is only applicable to the number of trees that are currently on the existing site. Mr. McCorquodale said in the context of recognizing that,

we are in the confluence of the East Texas Piney Woods, the Gulf Coast Prairie, and the Tall Grass Prairie and Post Oak Savannah, where we are in a really unique spot in that you can go a few miles in any direction and the landscape totally changes. Mr. McCorquodale said that was what informed the amount of canopy coverage they are using on any one lot. Mr. McCorquodale said the thinking is to classify a percentage of canopy coverage based on the land use zoning, which will allow you to modify any one of them, without having to modify the other ones and also recognizes the type of land use from zone to zone is radically different. Mr. McCorquodale said there are different requirements to utilize a parcel in industrial versus a commercial parcel or a residential parcel versus institutional.

Jon Bickford said it looked like a lot of good work was done on this and he felt the canopy idea was a very good idea and he is also in receipt of the notes that came from the coordination with the community, which he thought really scored well and thanked Mr. McCorquodale for doing that. Mr. McCorquodale said they talked about this Ordinance and the update to the Ordinance at the developer's round table meeting and then had subsequent meetings with individuals to work through some problems.

Rebecca Huss said she noticed most of the information excluded the rights-of-way because they went back and forth several meetings ago about it, and she is comfortable that is a good way to go. Rebecca Huss said it seemed logical when they spoke about it before, so that worked out. Mr. McCorquodale said the right-of-way information came together from a meeting with Mike Ogerchock who has a 20-acre parcel where he is going to be building a road on, so you would not count the 60 foot where you know you will have a road. Mr. McCorquodale said the same thought is behind the utility easements if you know you are going to be installing utilities along a five foot or ten-foot area on the side of the property. Mr. McCorquodale said an important note regarding protected trees, which are 18 inches or greater that are outside the building envelope, are the trees that any development will be required to save. Mr. McCorquodale said in all fairness, would this Ordinance stop a 100-year old Live Oak in the middle of a parcel from being cut down, it would not, and that is not the intent of the Ordinance. Mr. McCorquodale said he thought there were enough reasons to save the tree, but legislation or policy, without becoming overly burdensome, is not going to do it. Mr. McCorquodale said you can travel 90 seconds from City Hall and be outside our City limits and that is really the competition in terms of being able to build and attract businesses to our City to help grow the

City. Mr. McCorquodale said we are not competing with an adjacent City, but we are competing with the County that has absolutely no constraints, so this Ordinance really strikes a middle ground between what we get as a City and what the residents get in terms of the quality of life. Mr. McCorquodale said the plan for this Ordinance is to take this to the Planning and Zoning Commission, who have seen it several times, but to review it one more time at their June 24 meeting and ask them to recommend to City Council to adopt the updated Ordinance at the June 25 meeting for adoption.

Rebecca Huss said one of the things she really likes about this Ordinance is the drawings show a lot of the trees in the front part of the parcel, or possibly the side of the parcel, which they have seen coming along SH 105, but the coverage is really about blocking the view of the development. Rebecca Huss said that way you get the perception of a lot of canopy coverage, as long as everything is not clear cut from the road, which makes a big difference in terms of how people prefer to build their buildings. Rebecca Huss said how the building goes in makes a big difference in how the public perceives what is left. Mr. McCorquodale said two stipulations of the Ordinance are that one requires the trees be spread evenly throughout the property and two, if you save trees on a site, you get a higher credit for those trees than what you would have if you planted a new tree because a native tree is already growing and thriving.

T.J. Wilkerson asked if a 100-year-old tree can just be cut down. Mr. McCorquodale said outside of the Historic District, yes, but the trees inside the Historic District do need approval from the Planning and Zoning Commission to be removed. Mr. McCorquodale advised T.J. Wilkerson that many of the churches on the north side of the City are Historical Landmarks, which are just outside the Historic District. T.J. Wilkerson said they are Historical Landmarks to the City, not through the County. Mr. McCorquodale advised City Council if they have any questions or want to discuss the information, to please contact him.

Tom Cronin left the meeting at 7:02 p.m.

#### **EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding



real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

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

a) Section 551.071 (consultation with attorney) Pending and Possible Litigation.

Mayor Countryman adjourned into Closed Executive Session at 7:02 p.m.

11. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 7:45 p.m.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

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

There was no action taken.

**COUNCIL INQUIRY:**

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

There were no comments made.

**ADJOURNMENT**

Jon Bickford moved to adjourn the meeting at 7:46 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:

*Susan Hensley*  
Susan Hensley, City Secretary

Date Approved:

*06/25/19*

*Sara Countryman*  
Mayor Sara Countryman

