

MINUTES OF PUBLIC HEARINGS AND REGULAR MEETING

May 28, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

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

Present: Sara Countryman Mayor
John Champagne, Jr. City Council Place # 2
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent: Jon Bickford City Council Place # 1
T.J. Wilkerson City Council Place # 3

Also Present:

Jack Yates City Administrator
Susan Hensley City Secretary
Chris Roznovsky City Engineer

INVOCATION

John Champagne gave the Invocation. John Champagne also mentioned one of the City's officers, Lieutenant Belmares, who was hurt, and prayed for his recovery, mercy and comfort.

PLEDGE OF ALLEGIANCE TO FLAGS

CONSIDERATION AND POSSIBLE ACTION:

1. Receive the Final Reports from the Planning and Zoning Commission resulting from their two (2) Public Hearings held on May 16, 2019 and May 21, 2019 regarding the below listed City Initiated Zoning Amendments as described in Agenda Items 2-8.

Rebecca Huss moved to accept the Final Reports from the Planning and Zoning Commission Tom Cronin seconded the motion.

Discussion: Mr. Dave McCorquodale advised in the report there was one of the properties where an adjacent owner spoke against the rezoning, which is the last item, regarding 712 Community Center Drive. Mr. McCorquodale said the property was slated to be rezoned from I-Institutional to B-Commercial, at the request of the landowner. Mr. McCorquodale advised that after the facts, the Planning and Zoning Commission felt commercial use on that street would not improve the neighborhood or be in the best interest of this tract of land. Mr. McCorquodale said the Commission is recommending the property at 712 Community Center Drive not be rezoned.

Rebecca Huss said she is a high volume user of Community Drive herself. Rebecca Huss said her children go to school at Lincoln, so she uses it twice a day, five days a week for 35 weeks a year. Rebecca Huss said it is a narrow street in which the car rider line participants and buses seem to have a well-choreographed sense of where each person needs to go, but there are people driving on the wrong side of the road, buses who swerve in front of oncoming cars, and the intersection between Community Center Drive, MLK, and essentially FM 149 is approximately three car lengths away from the intersection. Rebecca Huss said for anyone who does not have much experience in driving that area, it is amazing there are not frequent accidents and she is sure the Police could attest to this because it is a nightmare. Rebecca Huss said she could not imagine adding commercial vehicles or people that don't have experience driving there because it takes a choreographed effort to drive safely through that area. John Champagne said he is hearing that Rebecca Huss is against changing the designation because of the traffic situation. Rebecca Huss said she was in agreement with the Planning and Zoning Commission because of the heavy volume of traffic that already exists there.

Mr. Yates advised they would not adopt the Ordinance until the next meeting, tonight is the Public Hearings.

Mrs. Patricia Easley asked to speak. Mayor Countryman invited Mrs. Easley to speak. Mrs. Easley said she is a homeowner and she has lived there for the past 17 years and said at times it can be pretty gnarly with the beginning of school. Mrs. Easley said she has a small business where she has prepared food since 2010 and she does not have customers coming to her home, so she does not add any traffic to the area, which was her reason for wanting to have it rezoned. Mrs. Easley said she lives on the property and said at the intersection, traffic is gnarly, but in front of her house,

it is not. Mrs. Easley said she would like to know what the objection was, who objected to her rezoning, and for what reason.

Mayor Countryman asked the City Secretary if Mrs. Easley could obtain the minutes for that meeting. Ms. Hensley said yes, they would be available. Mayor Countryman said Mrs. Easley would have to submit a records request for the minutes and then she will be able to read the documentation. Mrs. Easley said her business has no conflict to the area and she has been there for 17 years, in business since 2010. Mrs. Easley said the other thing is the Park where people are having family reunions and loud music, which seems to be unregulated by the City.

Rebecca Huss asked Mr. Yates to speak about the difference between the small businesses that are permitted within a residential footprint and the businesses that they were thinking about if it was rezoned to commercial. Mr. Yates said Mrs. Easley is based on a home occupation, which means that she can't advertise and there is not a lot of traffic. Rebecca Huss said she does not do nor does she have traffic or advertisements, so she is legally allowed to conduct her business under residential or her current zoning classification. Mr. Yates said that is correct. Mr. Yates said if they are zoned commercial that would mean any type of commercial use could be used at that property. Rebecca Huss said an example of that would include a gas station. Mr. Yates said it could include a convenience store. Mrs. Easley asked if there was any other mixed use in residential and businesses side by side in the City at all. Mr. Yates said not in this case because Mrs. Easley has a school on the west side of her property and a park on the one side with residential on the south of her property. Mr. Yates said if it was all one parcel and her property was touching FM 149. Mrs. Easley said the park has its own issues with the ordinances being violated and the noise all the time, and said she did not know if they had a crowd ordinance, but they should. Mayor Countryman said Mrs. Easley might want to take the matter up under Citizen's Comments because that is a different subject matter than is being discussed under the Public Hearing for zoning.

Mr. Yates said in summary, Mrs. Easley's property use is perfectly fine as it is zoned. Mr. Yates said if it is zoned commercial, then it can be any type of commercial use. John Champagne asked to clarify that Mrs. Easley has a problem with rezoning the property. Mrs. Easley stated no, she wants it rezoned. Mayor Countryman stated that Mrs. Easley wants the property rezoned.

Rebecca Huss asked to be clear that City Council was not making a decision tonight, they are just accepting the Planning and Zoning Commission's Final Reports, and then they will go into Public

Hearings, at which they will still not make a decision, and they will still have time to consider both sides. Mayor Countryman and Mr. Yates both stated that was correct.

The motion carried unanimously. (3-0)

PUBLIC HEARING(S):

Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following City Initiated Zoning Amendments:

2. Public Hearings: Regarding Rezoning the following properties from ID-Industrial to B-Commercial:

- a. 1.24 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St. SH 105 frontage, Montgomery, owned by the Lone Star Cowboy Church.
- b. 1.08 acres in Tract 42 of the Zachariah Landrum survey A-22, also described as part of 21627 Eva St., Montgomery, owned by the Lone Star Cowboy Church.
- c. 8.35 acres in Tracts 3 & 4 of the Zachariah Landrum survey A-22, also described as along SH 105 West/Eva St. in Montgomery, owned by Alan Wayne Mann.

Mayor Countryman convened the Public Hearing at 6:14 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearings at 6:15 p.m.

3. Public Hearings: Regarding rezoning the following properties from ID-Industrial to RI-Single Family Residential:

- a. 1.41 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 11181 Womack Cemetery Rd, Montgomery, owned by William and Julie Todd.
- b. 1.88 acres in Tract 46T-1 of the Zachariah Landrum survey A-22, also described as part of 21930 Twin Creeks Rd, Montgomery, owned by David and Carrie Solomon.
- c. 3.04 acres in Tract 46K of the Zachariah Landrum survey A-22, also described as part of 21910 Twin Creeks Rd, Montgomery, owned by Harvey and Juanita Simmons.

Mayor Countryman convened the Public Hearings at 6:16 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman Adjourned the Public Hearings at 6:16 p.m.

4. **Public Hearings: Regarding rezoning the following properties from I-Institutional to R1-Single Family Residential:**

- a. 2.25 acres in Tracts 45-D & 45-D-1 of the Zachariah Landrum survey A-22, also described as part of 623 Old Plantersville Rd, Montgomery, owned by the Joseph Shockley Revocable Living Trust.

Mayor Countryman convened the Public Hearing at 6:17 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearing at 6:17 p.m.

5. **Public Hearings: Regarding rezoning the following properties from R1-Single Family Residential to B-Commercial:**

- a. 0.46 acres in Tract 82 of the Owen Shannon survey A-36, also described as 15309 FM 149 Rd, Montgomery, owned by the Estate of Cherry D. Easley.
- b. 0.374 acres in Tract 84 of the Owen Shannon survey A-36, also described as approximately 15307 FM 149 Rd, Montgomery, owned by Arnette Easley.
- c. 0.41 acres in Tracts 1 & 70 of the Owen Shannon survey A-36, also described as 712 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- d. 0.5 acres in Tract 8 of the Owen Shannon survey A-36, also described as approximately 15328 N Liberty St, Montgomery, owned by Paul D and Doris J Allen.
- e. 0.25 acres in Tract 9 of the Owen Shannon survey A-36, also described as 15330 N Liberty St, Montgomery, owned by Willie & Evelyn Wright.
- f. 0.32 acres in Tract 2 of the Owen Shannon survey A-36, also described as 22950 W FM 1097 Rd, Montgomery, owned by the Estate of Audrey B. Allen.

Mayor Countryman convened the Public Hearings at 6:18 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearings at 6:19 p.m.

6. **Public Hearings: Regarding realigning the Zoning Boundaries** for the following property:

- a. 30.84 acres in Tract 14 of the John Corner survey A-8, also described as FM 149 South frontage on the east side of road from the city limits to the MISD bus barn, owned by Risher Randall, et

al. in Montgomery. The property is currently zoned B-Commercial and R2-Multi Family Residential. The proposed rezoning will realign zoning district boundaries, consolidating like districts and resulting in no appreciable change in size of either district.

Mayor Countryman convened the Public Hearing at 6:19 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearing at 6:20 p.m.

7. Public Hearings: Regarding rezoning the following properties from B-Commercial to R1-Single Family Residential:

- a. Lots 1 – 51, Blocks 1 & 2, The Hills of Town Creek, Section 2 Subdivision, also described as 103 – 234 Brock’s Lane, and 308 – 317 Brock’s Court, Montgomery.
- b. Open Space Reserves A, B, C, & D in The Hills of Town Creek Section 2
- c. Lots 1 – 49, Block 3, The Hills of Town Creek, Section 3 Subdivision, also described as 242 – 265 Brock’s Lane, and 110 – 155 Scenic Hills Court, Montgomery.
- d. Open Space Reserve A in The Hills of Town Creek, Section 3.

Mayor Countryman convened the Public Hearings at 6:20 p.m.

There were no comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearings at 6:21 p.m.

8. Public Hearings: Regarding rezoning the following properties from I-Institutional to B-Commercial:

- a. 0.5 acres in Tracts 15-A & 83-A of the Owen Shannon survey A-36, also described as 712 Community Center Dr., Montgomery, owned by Patricia Easley.

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

Ms. Shirley Nicholas who resides at 724 Community Center Road said she was the person who came to the Planning and Zoning Commission meeting and spoke about the traffic on Community Center Road. Ms. Nicholas said she understands that Mrs. Easley is running a business out of her home now, her concern is what future business could be there if it is commercial. Ms. Nicholas said she realizes school traffic is chaotic there and said she has lived there since 2002. Ms. Nicholas said she actually lives in the house that she grew up in and she

remembers a time when it was a quiet street and there were very few houses there. Ms. Nicholas said she remembers less traffic. Ms. Nicholas said Mrs. Easley is right, the park is rowdy and the people there are disrespectful to the neighbors. Ms. Nicholas said, as Rebecca Huss stated, it is very difficult at times in the mornings and evenings. Ms. Nicholas said she had a serviceman come to her home in the morning and he was trying to get to her home at 8:00 a.m. and had to get through all the traffic to get to her home. Ms. Nicholas said she means no disrespect to Mrs. Easley and she understands that if they could do anything to allow her to do what she does now without changing it to commercial use permanently, stating that was her concern if something happens and Mrs. Easley decides to leave or sell the property, could someone else come to that street and change it and cause even more confusion on that small road.

John Champagne asked for clarification for himself concerning the fact the property is not commercial or it is commercial doesn't affect Mrs. Easley's business whatsoever. Mr. Yates said that is correct it would not affect her current use.

There were no other comments.

Adjourn Public Hearings

Mayor Countryman adjourned the Public Hearing at 6:24 p.m.

Reconvene into Regular Session

Mayor Countryman reconvened into the Regular Session at 6:24 p.m.

VISITOR/CITIZENS FORUM:

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

Mr. Chappell with Blue Wave Carwash advised he would withhold comments until later in the meeting when he understood what particular subject would be covered. Rebecca Huss said she did not think that it was on the Agenda. Mayor Countryman said she did not think that it was on the Agenda.

Mr. Chappell said he came in from Arlington, Texas to attend the meeting because they were under the understanding that it was going to be on the Agenda tonight. Mr. Chappell said Ms. Huss said the information might be covered under Executive Session, but he guessed at this point he wanted to know if he should discuss the information or drop it because it is not on the Agenda. Mr. Chappell said he did not know what he was supposed to do now that it is not on the Agenda. Mr. Yates said this is going before the Board of Adjustment, which is separate from City Council. Mr. Yates said the Board of Adjustment has scheduled their Public Hearing to be held on June 12, 2019 at 3:00 p.m. Mr. Chappell said he is supposed to be back here on June 12, 2019 at 3:00 p.m. for a meeting that concerns Blue Wave Carwash. Mr. Yates said that was correct.

CONSENT AGENDA:

9. Matters related to the approval of minutes of the Regular Meeting held on May 14, 2019.

Tom Cronin moved to approve the minutes for the Regular Meeting held on May 14, 2019.

Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

10. Consideration and possible action on Department Reports.

- A. Administrator's Report: Mr. Yates presented his report to City Council reporting on the different meetings he had attended during the month. Mr. Yates said he met with a General Land Office (GLO) representative about the upcoming grant the City will be receiving from the GLO, which she estimated would be in late June.

Mr. Yates advised that he had met with several developers during the month regarding The Shoppes of Montgomery, Chick-fil-A, Christian Brothers Auto Repair Shop, Blue-Wave Car Wash, Samdana, Pro-Core, and other development possibilities. John Champagne asked Mr. Yates if he had a discussion with Blue Wave. Mr. Yates said yes, he spoke with a representative that he has been speaking with all along who had applied for the building permit.

Mr. Yates said he has coordinated with the new Police Chief and City Administrator getting them ready to start the work process.

Mr. Yates said he completed the backflow prevention device installation at 99% percent, with only one person remaining to have their device installed. Mr. Yates said the Live

Streaming presentation is not ready for this meeting primarily because of the time taken by the City-initiated zoning process during the month.

Mr. McCorquodale advised the joint workshop meeting that the Planning and Zoning Commission has requested to cover several topics. Mr. McCorquodale said they would like to discuss the Zoning Ordinance, the Tree Ordinance, Table of Use updates, and other various issues. Mr. McCorquodale states the change all at once would help with cost savings for the notifications that have to be sent out, as well as being able to discuss the topics in a setting that allows back and forth dialogue. Mr. McCorquodale said he thought they were considering the middle of June for the workshop. John Champagne asked if he could send out two or three proposed times and get a consensus between City Council and the Planning and Zoning Commission.

Mr. McCorquodale said the other item that came up late Friday afternoon is to us and all cities across Texas is House Bill 852 regarding building permit fees. Mr. McCorquodale said cities can no longer charge permit fees based on valuation for residential construction. Mr. McCorquodale said the City charges for building permit fees, as well as almost every other city across the state which is based on valuation. Mr. McCorquodale said one of the stipulations in the bill was they passed the House and the Senate by 2/3's and it was effective immediately, so on Friday afternoon they were told the way we charge building fees are no longer allowed to be charged. Mr. McCorquodale said with Monday being a holiday, staff is really still trying to get their heads around exactly what this means. Mr. McCorquodale said they were working on some updates that will have to be modified to not be based on the valuation of the house. Mr. McCorquodale said by the next City Council Meeting, they should have the ordinance in place.

John Champagne said he briefly read over the information and he did not remember what the criteria was for assessing a fee for a permit and asked if Mr. McCorquodale knew what it is. Mr. McCorquodale said the way the bill reads is it just says you can't base the permit fee on valuation. Mayor Countryman asked if the City could determine an amount. Mr. McCorquodale said he felt the prevailing logic is going to be based on the size of the home under the principal that the larger the home is, the more involved the inspections and the review process will be. Mr. McCorquodale said with the brief interaction they have had with the surrounding cities, that is the way they feel, that they will base it on size rather than value. Rebecca Huss said in theory, those two things are the same because a 5,000

square foot home is more than likely going to be fancier than an 800 square foot home. Mr. McCorquodale said this does not apply to commercial structures. Mr. McCorquodale said there is a grey area as to whether it applies to multi-family residential. John Champagne asked if there was anything definitive which tells you what you can charge for permits. Mr. McCorquodale said no. John Champagne said they might be in arrears in issuing permits to people within the City that want to start building. Mr. McCorquodale said anyone who submitted a permit that has not been issued, according to what they understand now, they cannot issue that permit.

John Champagne asked if they were going to let everyone know that we are in limbo until the State bestows what we can do. Mr. Yates said he would think so and he was going to ask the City Attorney if he could adjust the fees. Mr. Foerster said that he thought they would have to go with the Ordinance that will probably be presented to City Council at the next meeting. Mr. Foerster advised he has not had a chance to study the Bill that just came to his attention this morning. Mr. Foerster said based on what he is understanding, it would go into effect as soon as the Governor signs it, which was done on Friday. Mr. Foerster said he is reaching out to other cities as well to find out what they are doing and he will try to find out from Texas Municipal League what their recommendation is as to how cities handle this. Mr. Foerster said to answer John Champagne's question, all they know is what they cannot do. John Champagne said that was all he wanted to define, and said it would be interesting to know how many developers or builders they have in the State Legislature that would be positively impacted by this Bill. Mr. Foerster said in his personal observation, there is a lot stronger lobbyist for the developers than there are for cities themselves.

Rebecca Huss said it seems to her that ultimately cities will figure out a way to get it done, so it will just be a period of delay until they figure out how to make the numbers workout and that is what they will pass, so the only people that will be hurt are the people who are waiting for their permits during this period of time. Mr. Yates said their thought is probably to work toward the cost per square footage. Rebecca Huss said if they wait, because this is the second meeting of the month, and the next meeting will be 15-18 days, which is a long time for people to wait. Rebecca Huss asked if they should have a special meeting to get the adjusted schedule of fees signed so they can still do business in the City. John Champagne said he was for it. Mr. McCorquodale said he thought they would know as soon as they can put together what works and they will reach out just as soon as they have

something in place. Rebecca Huss said they do not need a complicated ordinance, they just need a table of fees they can refer to for the time being.

Mr. Rick Hanna, Building Inspector, advised he feels this was basically from the Builders Association and a lot of the members of the Legislature have interests in developments and construction, so he feels like a lot of this has come from having a hard time getting their permits approved in Austin due to time delays, so there are several other Bills that he is trying to see if they have passed or not, that will affect the time to get plan reviews completed. Mr. Hanna said he thinks the intention is a 2,000 square foot home that costs \$200,000 does not take that much more of an inspection process than a 2,000 square foot home that costs \$5,000,000, which is their objection on why they are paying more for a home that cost more, but has the same square footage. Mr. Hanna said they are working on a fee based on square footage because that is really the only thing they can go by, making sure the City still covers its expenses. Mr. Hanna said one of the Bills he is checking on to see if it has passed, was to limit what materials you can use. Mr. Hanna advised this Bill provides the City would not be able to say someone could only have masonry veneer exteriors.

Mayor Countryman said she hoped they would get something by the end of this week, because our permits have really stepped up and they have become extremely busy in that department. Rebecca Huss asked that City Council be called back for a Special Session if they have something that can get them open for business.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council. Mr. Muckleroy reviewed some of the work orders for the month. Mr. Muckleroy advised the Department has continued their pumping in Terra Vista, stating they have increased the process to three times per week. Mr. Muckleroy said they completed 13 sewer taps, trimmed right of ways and low lying limbs, installed a new culvert at Lift Station 10, and completed another round of in-house crack sealing of streets. Mr. Muckleroy advised he had assembled the picnic tables for the break area at City Hall and repaired electrical receptacles in downtown for the Antique Festival.

Mr. Muckleroy advised they completed 17 work orders for park maintenance issues. Mr. Muckleroy advised they buried one section to two-wire at Memory Park, noting that other

sections will be replaced and buried over the next couple of months. Mr. Muckleroy said the Fernland docents reported 836 visitors and they provided 50 tours for the month.

Mr. Muckleroy said they had several trucks and trailers that had to be worked on during the month. Mr. Muckleroy said the department constructed flag poles and ground holders for the "Texas Flag Challenge." Mr. Muckleroy announced that he had hired a new Public Works Maintenance Technician Lawrence Paulton that started last week.

Rebecca Huss asked how much money is saved by not outsourcing the crack sealing of streets. Mr. Muckleroy said they spend \$7,000 to \$8,000 to do the crack sealing, which would cost about \$25,000 to hire a contractor to come in and do the same work. John Champagne asked what the \$7,000 to \$8,000 covers. Mr. Muckleroy said it covers material and hiring a temporary employee to assist with the project. John Champagne asked if that covered the existing staff. Mr. Muckleroy said that is not figuring in all the labor on our end, which he could be safe in saying \$9,000 would be a safe figure. Mr. Muckleroy said the biggest thing is the quality of the work, because when they first started this, when they went back and looked at the contracted crack sealing work that had been done, there were lines on the ground that were not even on the cracks in the road. Mr. Muckleroy said at least when his workers are doing the work, he knows they are putting product down where it is supposed to be located.

Mr. Yates asked Mr. Muckleroy to talk about the "ultimate water meter" they found. Mr. Muckleroy said they have come out with a new ultrasonic water meter that has no moving parts and has a 20-year guarantee on accuracy with no gallons limit. Mr. Muckleroy said the current meters the City has use a disc that wears out, so they recommend changing them at two million gallons, and this new meter is 20 years no matter how many gallons. Mr. Muckleroy said the new meter will cost a little more on the $\frac{3}{4}$ and one inch side, which he thought was \$80 per meter on the $\frac{3}{4}$ inch side, which would increase their tap fees \$80. Mr. Muckleroy said when they put the new meters in the ground, they don't have to worry about them for 20 years.

John Champagne said if flow does not degenerate for these new meters, is it time specific. Mr. Muckleroy said yes, the meter actually measures sound. John Champagne asked why it was 20 years, why not 100 years. Mr. Muckleroy said he was sure battery life would play a lot into the life of the meter. John Champagne asked if they could replace the battery.

Mr. Muckleroy said the meter was all one unit. Rebecca Huss said if the meter is new, how do they know it works for 20 years. Mr. Muckleroy said the technology has been out for a couple of years, and it is just now they have incorporated it into smaller units. Rebecca Huss said if they are warrantied, then they will give you another unit, whereas the City would not get their money back if they were giving away water. Mr. Muckleroy said they don't get money back on the current meters either. Mr. Muckleroy said the current meters will detect up to .5 gallons per minute and the new meters will detect .05 gallons of low flow. Rebecca Huss asked if by low flow Mr. Muckleroy means a drip from a faucet. Mr. Muckleroy said it could be a drip from a toilet, but said the main part from his standpoint is not having to rebuild a meter four or five years down the road. Mr. Muckleroy said when they reach a point in another five years or so when they start rebuilding the meters that are in the ground now from the program they did 3.5 years ago, the ones that will be installed now will be good for 20 years. Rebecca Huss asked how long it takes to rebuild a meter. Mr. Muckleroy said onsite it takes about 30 minutes. Rebecca Huss said the techs are billed out at \$30 an hour with equipment, and the new meters are \$80 more. Mr. Muckleroy said it is also about \$50 in parts to rebuild the meter. Rebecca Huss asked if Mr. Muckleroy was asking permission to go to the new meters. Mr. Muckleroy said the City's tap fee is set at a set price plus the cost of the meter, which they did it that way so they would cover the cost of the meter if it should increase, even if they don't change the meter type. John Champagne asked if they would replace the meters through attrition, as they wear out they will be replaced with the ultrasonic meter. Mr. Muckleroy said that was correct.

John Champagne said he saw Mr. Muckleroy was doing inspections on grease traps, and asked who performs those inspections. Mr. Muckleroy said as of today, Gulf Utility will be performing those inspections starting tomorrow. John Champagne asked what those inspections will cost. Mr. Muckleroy advised it would cost the customer the same \$50 per month inspection fee, but it will cost the City \$45 to have Gulf Utility do the inspections.

John Champagne advised that he had received an email today from Phil's Roadhouse owner indicating that nobody ever checks their grease trap. Mr. Muckleroy stated that was not true and said he has the paperwork to prove otherwise. Rebecca Huss stated the owner probably does not know because in the three years of reports that she checked, she did not have a failure. Mr. Muckleroy said about three years ago their grease trap hatch was covered in dirt, so they got with the owner and advised the ordinance requires them to have an accessible hatch, so the owner installed one. Mr. Muckleroy said it only takes a few

minutes to pop the lid, which is located in the front left corner of the building and not near the kitchen, so his guess is they just have not seen them. John Champagne said the owner indicates they have a 500 gallon reservoir. Tom Cronin said the owner stated she had cameras and has not seen Public Works, so maybe someone should stop and let them know. Mr. Muckleroy said he can pull the records and advise exactly what time they were there within a 15 minute range. Mayor Countryman said they could advise the owner to submit a records request to get that information. John Champagne said the owner sent the information via email. Mayor Countryman said he could return the email and advise the owner about submitting a Records Request.

Rebecca Huss asked if City Council needed to recommend the ultrasonic meters. Mr. Yates said he was going to ask the company to do a presentation to the TORC Committee for their review. Rebecca Huss said good plan, along with Richard Tramm.

- C. Police Department Report – Sergeant James Bracht presented the report in the absence of Lt. Joe Belmares. Sgt. Bracht said for the month of April, they ended up with 1,286 calls for service and generated 40 reports and investigations. Sgt. Bracht said out of those 40 reports, 18 were arrests. Sgt. Bracht said they ended up with 134 citations and 168 warnings.

John Champagne stated that citations are down precipitously and he understands they are understaffed, but people are flying through the City for the most part. John Champagne said citations are still running about 50% warnings.

Sgt. Bracht advised on April 13, 2019 an Easter Event that was prepared for the Church off of Eva Street, due to weather with tornado warnings that occurred, the training was moved to Conroe in an enclosed facility for the children. The training was put on by CPS, and two of our Reserve Officers attended the training class. Sgt. Bracht stated on April 22nd Officer Aguirre attended Crisis Intervention Training, and on April 23rd Sgt. Bracht himself attended an Attack Integrated Response Course that was put on by the Fire Marshal's Office with support by representation from each agency in Montgomery County so they know what the other agencies will be doing while they are on the scene.

Sgt. Bracht introduced a new officer with the Police Department, Officer McRae who spent three years with Brazos County, five years with the Navasota Police Department, and has

completed his field training and is on patrol. City Council welcomed Officer McRae to the City.

Sergeant George Hernandez asked to address the citation totals, stating the two variables that he sees are the calls for service have gone up quite a bit and one of the officers, who was writing a large number of citations, has gone down. John Champagne said he did not want citations written just for the sake of writing them and he understands the dilemma of calls taking them off the street.

Sgt. Bracht stated the Police Department has been taking an active part with water theft and they have been making serious bounds, with the officers on the street and department heads catching them and issuing citations. Sgt. Bracht said they are stealing the water straight from the fire hydrants, which is a substantial amount of water. Sgt. Bracht said they have tried their best and have gotten with the DA's office to see if they can press anymore charges because it is a Class C misdemeanor. John Champagne asked what grand larceny dollar amount is. Sgt. Hernandez said anything under \$100 is a Class C misdemeanor. Sgt. Bracht said anything over \$150 they get a ticket and if they refuse the ticket, they go to jail. John Champagne said they could easily get to that amount. Sgt. Bracht said they are working with the DA's Office and some other tactics to see what they can do. John Champagne said good job because they have been doing this for a while.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator presented her report to City Council. Mrs. Duckett advised in April they collected \$40,450.17. Mrs. Duckett said she left out the citation numbers, which she will be adding to the next report.

Mrs. Duckett said the warrant officer has been working diligently to figure out different strategies, and now he is working through the alphabet and going through the jail records to cross check everyone who is incarcerated in Montgomery County Jail that have warrants through the City to have the opportunity to have the warrant served and to give them the information to request time served, or once they are released from jail they will come in and request a court date. Mrs. Duckett said the warrant officer went out Monday and Tuesday and contacted 25-40 people in that range, some refused to talk to him and some wanted the information. Mrs. Duckett said the Montgomery County Jail has a generic form where they can write a standard letter to send to the City with the request for time served, so they are working on some different strategies.

- E. Utility/Development Report – Mr. Yates presented the report, advising there were 88 permits issued for the month in the amount of \$30,292. Mr. Yates said utilities collected \$172,663. Mr. Yates said there were 13 new residential permits and 3 new commercial permits issued during the month. Mr. Yates said there are 36 new water accounts for a total of 762 active accounts.

John Champagne asked about the arrears at \$41,583. Mr. Yates said he has contacted the Auditor to ask for the language for us to be able to write off the arrears exceeding 120 days. Mr. Yates said he is still trying to get the proper language to write of the arrears.

- F. Water Report – Mr. Mike Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams advised they had three district alerts this month. Mr. Williams said on April 3rd they had a prime alarm switch go out on Well 4 that they were able to replace and get back up. Mr. Williams said on April 7, they had two alerts, one at Lift Station 10 that had a power failure due to a power surge, and a blower failure at Wastewater Treatment Plant 1 due to a power surge. John Champagne asked if whether the alarm went off, did we automatically switch to another well, or how does that work. Mr. Williams said when the prime alarm went off at Well 4, it called them out for service and they switched over to Well 3, so there was no loss in service.

Mr. Williams advised the Wastewater Plant flow and for the month of March – April it was 4,330,000 gallons, with the daily peak flow on March 19th at 187,000 gallons, with a daily average flow of 139,700 gallons. Mr. Williams noted the effluent discharge, which was all in compliance for the month of April with 1.2 inches of rain.

Mr. Williams then advised they sourced a total of 9.597 million gallons of water. Between flushing and leaks, they had a total of 483,000 gallons and sold a total of 8.633 million gallons for 95% accountability.

Rebecca Huss asked if there are any plans for summer pumpage that is different from what has been done in the past with the lawsuit and the ability to freely pump from the Gulf Coast Aquifers, since the Catahoula is hot water and the temperature is hot. Mr. Williams said yes, last summer they were monitoring the temperatures, adjusting as much as they could to keep the temperature down. Mr. Williams said one of the things they are trying

to move forward with is they can't run the wells together to bring the water temperature down, they run in cycles so they will try to manage that. John Champagne said as he remembers, part of it was that we anticipated blending those two wells, and asked if that has never come to fruition. Mr. Williams said there was an inability for that plant because of the controls, but once again they are working on that. Mr. Roznovsky, City Engineer, advised you could blend the water in the tanks, you just can't run them at the same time. Rebecca Huss said they could have more from Well 3 and then obviously water from Well 2 could circulate as well, so people could have cooler water if they are not as worried about their permit levels anymore. Mr. Roznovsky said they still have permit levels and they are still in effect. Mr. Roznovsky said the lawsuit with Lone Star Groundwater Conservation District (LSGCDD) and all the changes is an ever changing target. Mr. Roznovsky said LSGCDD, the Courts, and the Water Development Board are at odds to what is actually meant. As of right now, the permit levels are all stalled. John Champagne said when they drilled the Catahoula Well, it was a shot in the dark and they did not know what the salinity concentrations would be, so it was his understanding if it came in with a high salinity, they could blend to get it in compliance. Mr. Roznovsky said the blending that is taking affect is that you can still run both wells that go into the same tank, you just can't run them at the same time. Mr. Roznovsky said what they could do is have Well 3 run twice as much as Well 4 so they could be putting a higher ratio of the cooler water to the tank. John Champagne said it seems cumbersome to him.

Rebecca Huss asked if the cities that feel they won the lawsuit are still sticking to their original permit levels. Mr. Roznovsky said he did not know for sure, but he knows a lot of lawsuits that were based on the fees that were being charged to them and the increase in fees, and then what came down from Austin was the 2009 cutoff point and 30 percent reduction was what became invalid. Mr. Roznovsky said when the LSGCDD adopted their new management plan without those limits and sent it to the Water Development Board, the Water Development Board nixed it and said you have to have a plan that you can go back to the 2010 study, which were slightly different numbers, but it was still a limit. Mr. Roznovsky said from everything they hear, it is going to take a long time to get everything worked out, and everything now is being done on a case-by-case basis. Mr. Roznovsky said there has been no guidance or formal action by LSGCDD that says entities will get their 30 percent back.

Mr. Williams advised the City sold 8.633 million gallons of water and treated 4.33 million gallons, with 1.2 inches of rain, which is a 50 percent return rate.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised they have a conference call with the State, bonding company, and the potential contractor for the Baja Road Project tomorrow morning to make sure the paperwork is in compliance with the State's requirements. Mr. Roznovsky said since the last report, they had an on-site meeting with the potential new contractor. Mr. Roznovsky said the bonding company has provided the City an agreement for the new contractor to take over the contract, which is what is being reviewed tomorrow. Rebecca Huss asked whether all the third party costs were being tracked, such as the City Attorney, City Engineer, etc., to send back to the bonding company so the City does not pay any bills out of tax payer dollars. Mr. Roznovsky said that was being done.

Mr. Roznovsky reported that Lift Station 1 Replacement Project contract is being worked out, as well as the 18-Inch Sewer Line Project. Mr. Roznovsky said Atkins Creek will rebid on June 4th. Mr. Roznovsky said they have spoken to all the contractors regarding Atkins Creek that were interested in bidding the first time and got all their feedback and made some slight changes to the documents regarding time, which was their biggest issue because they were all busy. Mr. Roznovsky said they have added another 30 days to the contract and made a couple of clarifications, so they expect to submit bids on June 4, which will be presented to City Council on June 11, 2019.

John Champagne asked about why they had to rebid Atkins Creek. Mr. Roznovsky said there were no bids submitted the first time. Mr. Roznovsky said there were 11 companies, plus nine different plan rooms that pulled the plans, and everyone they talked to said there were a lot of things bidding during that time and all their crews were full so they could not do the project at that time.

Mr. Roznovsky said the current expectation regarding the GLO contract that Mr. Yates mentioned will be the end of June.

Mr. Roznovsky said they have received the maps for the proposed location that was for a proposed interconnect with Dobbin-Plantersville in which they provided some comments back and forth because they are right next to the sawmill and they wanted to make sure it

was out of the way of any potential Lone Star Parkway features that would have to be moved. Mr. Roznovsky said Mrs. Vu has put together some cost estimates which they discussed.

Mayor Countryman asked what Exxon's problem was because she thought he agreed and then all of a sudden, they backed out and asked what is going on. Mr. Roznovsky said the owner agreed to provide the additional right-of-way for the turn lane, no issue, then when they got the first set of plans, it did not account for that information. Mr. Roznovsky said they met with the owner and he agreed. The biggest issue is when they take the additional nine to ten feet, the owner can't find a place to put his dumpster out of sight. Mayor Countryman asked Mr. Yates, since they had spoken at one point, and Mr. Yates was going to propose giving him one year free as a creative measure. Mr. Yates said no, he did not because he needed to come up with a potential location for the dumpster. Mr. Yates said he has spoken to the owner of Shipley's Donuts and he is not interested in giving an easement or sale of property. John Champagne asked to confirm there is no room for the dumpster on that location if they take the nine feet. Mr. Yates said that is true. Mayor Countryman said there is room to have the dumpster, the owner just does not like the location. Mr. Yates said that is correct, he does not like it being in front. John Champagne asked why the City does not just put one in for him. Mr. Yates asked where they would put it. Mayor Countryman said that was the problem. John Champagne said he is hearing Mr. Yates say there is a place to put the dumpster, in Mr. Yates opinion. Mr. Yates said physically there is a place. John Champagne said if the City went and said they will put a compartment for them for their dumpster, would he be open to that and did we suggest that. Mr. Yates said no, but he did not think he would go for that because the type of structure they would build would be more elaborate than what he has now, but he would still be losing a parking space. John Champagne said Exxon does not see a gain by having the turn lane there. Mr. Yates said a way to think of it as what is the value to the City for the turn lane. Rebecca Huss mentioned eminent domain of the property. Mayor Countryman said they could do that too. Mayor Countryman asked if they could pursue eminent domain to get the property. Mr. Yates said yes. Mayor Countryman said then they need to get the ball rolling, because they have been talking about this for over a year. John Champagne advised Mr. Yates he should attempt to be as compromising as he can.

Mr. Roznovsky said regarding the northbound turn lane heading north, he has received comments from TxDOT and they want us to set some monuments for them on the new

corners, and then reorder the description. Mr. Roznovsky said TxDOT wants the City to be the ones that set the pins in the corner with the surveyors stamp on it.

- H. Finance Report – Mr. Yates presented the Finance Report to City Council advising the following balances:

General Fund - \$1,187,372

Capital Projects - \$2,895,028

Utility Funds - \$992,967

Montgomery EDC - \$943,361

Total Funds for the City - \$6,443,941

Mr. Yates said the General Fund is to the positive \$166,115, the Utility Fund is to the positive \$209,263, and as he stated in his City Administrator's Report, he did an estimate for the General Fund and his estimate for the end of the year is \$120,000 to the positive, and the estimated positive for the Utility Fund was \$95,640 based upon all the transfers over to Capital Projects Fund. Mr. Yates said he did not have any budget amendments at this time. Mr. Yates said next month they will be starting the process for the 2019-2020 Budget July 5, with staff budget due at that time, following receipt of the June 2019 Financial Report. Mr. Yates said the department heads came up with their own budgets, with the Preliminary Budget being presented to City Council on July 19th after he has put all the departmental budgets together. Mr. Yates said there will be two or three budget workshops, with the goal of adopting the budget the first meeting in September.

Rebecca Huss moved to approve the departmental reports as presented. John Champagne seconded the motion, the motion carried unanimously. (3-0)

11. Consideration and possible action regarding Street Closure for Freedom Festival on July 6, 2019.

Mr. Yates presented the information to City Council stating the streets to be closed are Prairie, Mason, Maiden, College, McCown, Caroline, John A. Butler and North Liberty, and SH105 to Berkley from 8:00 a.m. to 5:00 p.m. Mrs. Shannan Reid advised the parade starts at 11:00 a.m. and is usually done by 12:30, which is the only time that all of the streets really experience any

blocking. After that, Mrs. Reid said until 4:00 p.m., there is the small “T” at the Community Center. Mrs. Reid said this is the same as it has been for several years.

Rebecca Huss said FM 149 can't be closed from SH 105 to Berkley for 4 ½ hours, and she thought the way they have done it in the past is when the parade goes by, the streets close to prevent extra cars from inserting into the parade, which the Police usually block off in advance, then when the tail end goes through safely, they open the street back up. Mr. Yates said that is correct. Mr. Muckleroy advised they put the barricades up in advance, and then the Police Department puts them in place when it is time to close the roads down.

Mayor Countryman said before the parade starts there is no blockage of the roads, and then when the parade starts is when the blocks are put in place to allow the parade to go through. When it ends, they open the roads back up. Rebecca Huss asked if they want the “T” closed the entire time. Mrs. Reid said she needs the “T” closed the entire time, until 5:00 p.m. John Champagne asked if this route is the same as the Christmas Parade. Mrs. Reid said yes, they keep it the same as it has been for the last seven years. John Champagne asked when they stage the parade participants, is everyone pulled over on the side of the road. John Champagne said hopefully it does not rain again the way it did last year because there are trenches all over the City and they are tearing the place up. John Champagne said when they pull trailers, trucks, etc. on the side of the road, they are rutting up the whole route. Mrs. Reid said one of the differences between the Christmas Parade and this one is they do not have the large trucks and trailers in the Freedom Festival Parade, they might have a regular size vehicle, but this is anything but a trailer parade. Mrs. Reid said they usually have small families and bicycles, golf carts, and horses. Mrs. Reid said she has provided the map and an overview of the events for the day. Mrs. Reid said they do have a “Keep Montgomery Beautiful” campaign that will be at the end of the parade and they do a full sweep and make sure it is all clean.

Rebecca Huss moved to approve the street closure of the “T” at College and McCown for the full July 6, 2019 and the parade closures as necessary. John Champagne seconded the motion, the motion carried unanimously. (3-0)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ORDINANCE NO. 2016-18, DATED SEPTEMBER 13, 2016, PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY,

TEXAS; PROVIDING AND ESTABLISHING A \$50.00 FEE FOR RE-INSPECTIONS OF GREASE TRAPS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF JUNE 1, 2019 AFTER PUBLICATION.

Mr. Muckleroy advised this ordinance goes along with their outsourcing of the grease trap inspections, and said the way that it has always worked in the past is someone fails an inspection, so they go back and re-inspect at no charge. Mr. Muckleroy said now they are wanting to add a line that states if a re-inspection has to happen, Gulf Utility will not do it for free, so it will cover the charge to the City. John Champagne said the re-inspections were never for free.

John Champagne moved to approve the Ordinance as requested. Rebecca Huss seconded the motion, the motion carried with a vote of 2-Ayes and 1-Nay by Tom Cronin. (2-1)

13. Consideration and possible action regarding Community Development Block Grant , Phase 2:
 - a. Consideration and possible action regarding Completion of Phase 2; and
 - b. Consideration and possible action regarding Jones and Carter Engineering Contract for Phase 2.

Mr. Yates said with the excellent bid received for the CDBG Baja Street Project, it left approximately \$102,000 available for another extension of the project. Mr. Yates said this project requires new engineering for the additional area in order to use the available funds. Mr. Yates said he wanted to point out the construction amount of \$55,010 versus the engineering costs of \$44,000 that seemed high. Mr. Yates said the high cost of the engineering is because in order to do a project, it has certain fixed costs. Mr. Yates said he felt they need to do the project because the improvements would not happen if they did not do the project, which is the extension of the 8-inch line down Martin Luther King to be in the City limits, and also, they would lose points for future CDBG projects if they did not use all the funds. Mr. Yates said while he was in favor of the project, he just wanted to point out to City Council the high percentage of the cost of engineering versus the benefits of the project.

Rebecca Huss said they are kind of over a barrel because if you go from the point that the City can't afford to lose points because it impacts any future grants that we would get, then we have to do a project and we can't do another engineering firm because they do not have time to get it done between now and the deadline. Mr. Yates said that was correct, and each grant is \$300,000 - \$325,000, so generally you get funded every other cycle.

John Champagne said he would believe this additional improvement will add to the quality of life for the individuals that live there. Mr. Yates said that is correct. John Champagne said let's roll. Rebecca Huss said she agreed, she did not like the percentage, but she did not see they have any other choice and there is a good outcome as well. Mayor Countryman said correct.

John Champagne moved to approve the project as requested under Agenda Item 13 (a) and (b). Rebecca Huss seconded the motion.

Discussion: Rebecca Huss asked to clarify that this was approval of (a) and (b) for Agenda Item 13. John Champagne advised that was correct.

The motion carried unanimously. (3-0)

EXECUTIVE SESSION:

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

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

- a) Section 551.074 (personnel matters) related to City Administrator selection; and
- b) Section 551.071 (consultation with attorney) related to pending litigation.

Mayor Countryman adjourned into Closed Executive Session at 7:33 p.m.

15. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 7:55 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

Rebecca Huss moved to direct the City Administrator to enter into a contract with Richard Tramm for a start date of June 10, 2019 as the new City Administrator. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

COUNCIL INQUIRY:

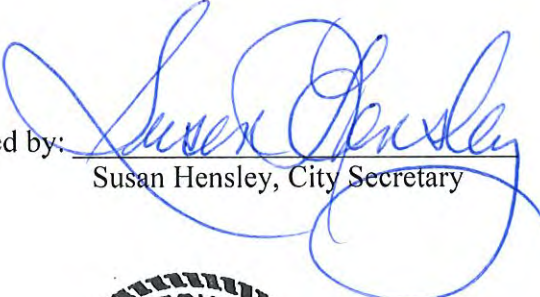
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

There were no comments.

ADJOURNMENT

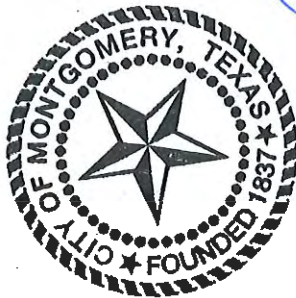
John Champagne moved to adjourn the meeting at 7:57 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

06/11/19




Mayor Sara Countryman