

MINUTES OF PUBLIC HEARING and REGULAR MEETING

February 12, 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
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: Jack Yates City Administrator
Larry Foerster City Attorney
Susan Hensley City Secretary
Chris Roznovsky City Engineer

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

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:

1. Receive Final Report from the Planning and Zoning Commission dated January 14, 2019 resulting from their Public Hearings held on October 22, 2018 and November 26, 2018, regarding
 - a) A request to rezone the property located at 2580 Lone Star Parkway, Montgomery from ID-Industrial to R-2 MultiFamily, by owner Larry Jacobs; and
 - b) A request to rezone the property located at 2560 Lone Star Parkway from ID-Industrial to B-Commercial, by owner Larry Jacobs.

Jon Bickford moved to accept the Final Report from the Planning and Zoning Commission dated January 14, 2019. John Champagne seconded the motion, the motion carried unanimously. (5-0)

2. Convene into Public Hearing – Regarding the following:
 - a) A request to rezone the property located at 2580 Lone Star Parkway, Montgomery from ID-Industrial to R-2 MultiFamily, by owner Larry Jacobs; and
 - b) A request to rezone the property located at 2560 Lone Star Parkway from ID-Industrial to B-Commercial, by owner Larry Jacobs.

Mayor Countryman convened the Public Hearing at 6:07 p.m.

Mr. Yates stated there has been no public comments received at City Hall regarding the rezoning request.

Mr. Larry Jacobs, owner, handed out additional information and stated during the last week he has contacted all the people west of 149, including the Carwile property and sent them information, which was sent out by the City to the property owners within 200 feet of the property being considered for rezoning. Mr. Jacobs said the package includes the permitted uses in the industrial zone and he started having a conversation with Jenny Stewart. Mr. Jacobs said the second package is the industrial zone, and the second page is the list of owners that have been affected by industrial zoning along Lone Star Parkway. Mr. Jacobs introduced his partner, Mr. Mike Wise, who was also present. Mr. Jacobs said those letters that he sent out to the various tracts of land are identified on the third page of his information. Mr. Jacobs said behind the information is a series of letters where the neighbors are making statements regarding the rezoning requests, with one being read as an example: *Please be advised that I recommend approval by City Council of the*

referenced zoning request as detailed in the attached letter from the City to various neighbors, per the attached letter, list, and map. While my (our) property is not within the 200 feet notification zone, it is within the industrial zoned area along Lone Star Parkway, west of FM 149. I do not think the attached Industrial Zone Permitted Uses meet my vision for the future of my property or our neighbors'. Please approve the rezone request. Mr. Jacobs said there should be a copy of all the letters, including one from the Carwile's, attached to the information.

Mr. Jacobs stated that they have a lot of neighborhood support. Mr. Jacobs said he changed his zoning request from when he came to the City previously, putting a business buffer between the development and the road. Mr. Jacobs said this is the same type of project as the Heritage one was. Mr. Jacobs said he spoke to the Chief, Nappi and asked him about the crime reports coming out of the Heritage projects, what kind of people were in the projects and whether they were bad for communities, and the Chief advised no, they were just working people and he had not experienced any unusual amount of crime. Mr. Jacobs said he would really appreciate City Council approving this, and said this is the second time, and they have a quiet little tract in the back. Mr. Jacobs said when they went through the process last time and they were competing against Matt Fuqua and his group they graded out higher with the State as a preferred location. Mr. Jacobs said they were not any farther from shopping than Mr. Cheatham is on the west side of town. Mr. Jacobs said the people that go to the apartments have jobs, have security clearances and they are just citizens that do not make as much money as you and I do. Mr. Jacobs said he would appreciate the City's consideration and said if they have any questions he would be available. John Champagne said he did not think that it was appropriate at this time to have a dialog. Mr. Jacobs said he was probably right, but said he would send out his contact with staff and said he would love to talk to anyone. Mr. Jacobs said he thought they had a whole gateway of uses that they feel are better uses than the two pages provided for the industrial zone, and he wanted to start that process.

Adjourn Public Hearing.

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

Convene into Regular Meeting

Mayor Countryman reconvened into the Regular Meeting at 6:14 p.m.

PRESENTATION:

Presentation of Plaques of Appreciation to: Dana Bickford, Don Carter and Randy Burleigh.

Mayor Countryman presented to Dana Bickford, a plaque stating the following:

In recognition of your many years of dedication to the City of Montgomery and service at Fernland Park as:

Head Docent – 2017 - 2018

Docent – 2013-2017

Thank you for your stewardship and diligence in promoting the history and ambiance of Fernland Park in Montgomery. Your dedication and service will not be forgotten by the City of Montgomery and the many citizens you have touched.

Mayor Countryman then presented to Don Carter, a plaque stating the following:

In recognition of your many years of dedication to Memory Park, which began October of 2005 following the passing of your late wife Shane, you made a generous donation, providing the seed money to begin the project.

Your continued dedication to Memory Park including establishment of “Shane’s Garden” a fragrant rose garden located at the entrance of the Park.

Your contribution, dedication and service will not be forgotten by the City of Montgomery and the many citizens who continue to enjoy Memory Park.

Mayor Countryman then presented a plaque to Randy Burleigh that stated the following:

In recognition of your many years of dedication to the City of Montgomery and continued service in many areas, which include work on the Montgomery Water Board, work on the Memory Park irrigation system, serving on the Montgomery Capital Improvement Advisory Board and Montgomery Technical Operations Review Committee.

Thank you for your stewardship and diligence in serving the City of Montgomery. Your dedication and service will not be forgotten by the City of Montgomery and its citizens.

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. Jacobs stated that he had already made his statement during the Public Hearing.

Mr. Phillip LeFevre stated that the City of Montgomery does a lot of things right, such as, vacation watches by the Police Department, and if something is wrong with a Lift Station or sewer, Mr. Muckleroy or someone goes out and check and is part of the City services. Mr. LeFevre said the exception is the City Engineer, which the City has outsourced.

Mr. LeFevre said several years ago they received a \$230 invoice for Jones and Carter to make a phone call to find out something that they could have told them in 10 seconds. Mr. LeFevre said what resulted of that complaint was they met with the City and quite a few thousand dollars was credited back to him because of different and double billing, so things seemed to be going smooth and hopefully they were on the right foot. Mr. LeFevre said they have started to get invoices and the costs are going up, for example, the cost for inspections when they did Section One of Lake Creek Village was \$171 a lot, Section Two was \$285 per lot, and now Section Three was \$393 per lot. Mr. LeFevre said one of the most recent invoices is \$615.25 to inspect the road, and said he did not know how many people it took to inspect the road, but that is an awful lot of money. Mr. LeFevre said they also received another bill for \$85 for them to drive by and check whether they had completed the work. Mr. LeFevre said they told the engineers and the City that their contractor does not want to clean out the culverts and drains until the weather changes because the grass won't set and it does not make any sense to do that because it will just fill up again. Mr. LeFevre said he did not feel this was right, and he thought that was one of the prices for outsourcing things that should be basic City services that we pay taxes for anyway. Mr. LeFevre said he did not think engineering should be pushed onto people, and said there were some services the City should offer. Mr. LeFevre said Oklahoma just passed a rule that the police there can do civil forfeiture, and now they can take credit card readers with them with no right to a jury, trial or evidence, and they can assess a fine.

Mr. LeFevre said his second point was his biggest regret in the last 10-12 years, they have built a lot of roads and utilities that they gave to the City and they should have gone to the City and negotiated some form of additional tax or some form of provision so as the improvements age there are funds available. Mr. LeFevre said he has noticed several City Council members have mentioned in passing that particular roads need to be looked at, and in the previous year's little or no money was spent on the roads, and he worries that the City thinks that everything should be free. Mr. LeFevre said if you get things for free you don't respect them. Mr. LeFevre said he sees that not necessarily with outsourcing, but with some of the grants the City is getting. Mr. LeFevre said as an example, Gardner Drive, there was a developer that was contractually obligated to build that road as a condition of sale, and in his mind that road should have cost \$200,000 to \$400,000, but the City got a grant, which has a higher level of engineering requirements, lawyers so a lot gets built in fluff. Mr. LeFevre said he forgot what Gardner Road cost, \$700,000 - \$800,000, which was more than he thought it would cost. Mr. LeFevre said many of them feel that the

Buffalo Springs Bridge should have cost a lot less if it would have been done without getting these grants that require all these levels of oversight. Mr. LeFevre said now there is this discussion about Atkins Creek and he is not sure whether the current proposal is \$405,000, and he was not sure if that included stabilizing the Creek, because if you do not stabilize the Creek you do not need to spend a penny on doing anything else because whatever you do is going to be transitional and will not be permanent. Mr. LeFevre said when you get public funds you have a whole level of what you have to do that is basically, in his mind, squandered in paperwork and the price is Plez Morgan, because here is a road that was well built, built by the largest contractor in Montgomery County, given to the City, and followed all the City specifications; core testing was done, which the City seems to have lost their core testing, and now all he reads is they do not know what is under Plez Morgan. Mr. LeFevre said they go for this huge grant and all of a sudden we do not get it for Plez Morgan, and the City says they have talked to developers and it will only cost \$20,000 to fix it. Mr. LeFevre said to him that is a statement on society that we are going out to borrow hundreds of thousands of dollars when they could have fixed it for \$20,000; in fact if they maintained it 10 years ago it might not even cost that much. Mr. LeFevre said he feels that the City needs to get away from begging Mike Meador to go and pave our roads; we need to stand on our own feet, and he did not think the City needs to be raising grants for hundreds of thousands of dollars, where we are the prime beneficiaries of engineers and fund raisers and lawyers, when you don't necessarily get a good product.

CONSENT AGENDA:

3. Matters related to the approval of minutes of the Public Hearings and Regular Meeting held on January 22, 2019.
4. Consideration and possible action regarding approval of an emergency expenditure of \$20,626.00 for the water line repair at Atkins Creek on FM 1097.
5. Consideration and possible action regarding Amendment No. 1 to Engineering Services Agreement Jones and Carter regarding Buffalo Springs Drive Bridge Embankment Rehabilitation Project.
6. Consideration and possible action regarding Certificate of Acceptance for public water, public sanitary sewer, and public paving included in the Emma's Way Extension (Dev. No. 1020) including acceptance of maintenance bond.

Rebecca Huss and Tom Cronin requested to break out Agenda Item 5 for discussion. Rebecca Huss said she did not think that an amendment to a contract that is already completed should be run through the Consent Agenda with a big increase and there is a lot of information that is missing. Rebecca Huss said she really thinks that this needs a much longer discussion before they look at a contract amendment. Rebecca Huss said she would like to make sure that Jones and Carter is getting their money from FEMA and not from the City, and that any reimbursements that the City

is getting from FEMA is reimbursing the General Fund from the Construction Fund, because they still have \$200,000 outstanding. Rebecca Huss said the way that the reimbursements should be working is that the engineer fills out the proper paperwork, the City signs it, it goes to FEMA, and then FEMA either approves or doesn't approve, so we need to make sure that all of this stuff is happening properly and the City is not floating any more money than it has already to. Rebecca Huss said she just could not see that they are giving a 37 percent increase in the engineering on a Consent Agenda item, they need a much larger presentation item than this.

Tom Cronin said he had a problem with the total amount and asked if there was not a contingency that was built, or do they just feel free to bill when they feel they have put more time than they originally estimated and they feel the City is obligated to pay them. Tom Cronin asked what happens if the City does not pay them. John Champagne said that was a good question.

Rebecca Huss moved to separate out Agenda Item 5 from the Consent Agenda and placed on the next City Council Agenda as an item to answer all of these questions. John Champagne seconded the motion.

Discussion: Jon Bickford confirmed that the motion was to remove Agenda Item 5 and move it to the next City Council Meeting Agenda. Mayor Countryman said that was correct.

The motion carried unanimously. (5-0)

Rebecca Huss moved to approve the other Consent Agenda Items 3, 4 and 6 as presented. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

7. 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 A 2.186 ACRE TRACT OF PROPERTY AND A .0475 ACRE TRACT OF PROPERTY, LOCATED AT 1062 CLEPPER STREET IN MONTGOMERY FROM A "R-1" SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE. (Ward Property)

Mr. Yates advised this was the adoption of the Ordinance for the Ward property rezoning and would be the final action. Mr. Yates stated this is two parcels of property located next to each other where Mr. Ward is asking that the property be rezoned from "R1" Single Family to "B" Commercial. Mr. Yates said the Planning and Zoning Commission has recommended approval of the rezoning. Mr. Yates said there has been a dispute between Mr. Ward and Mr. Lobojacky, but the City Attorney's opinion regarding that matter is Mr. Ward is making his application based upon his property and if they were to work that out later that would affect the zoning, but right now you would be approving the property Mr. Ward is requesting.

Jon Bickford asked if the City knows why they are moving from residential to commercial. Mr. Yates advised it is a request from Mr. Ward. Rebecca Huss stated that Mr. Ward is present. John Champagne asked if there was a commercial project in the plans. Jon Bickford said the property is right next to and sort of in the residential area, so if they are going to build something, do they know what they are going to build, is his question. Jon Bickford said he would want to know what they are going to build before he went with commercial. Mr. Yates said that Mr. Ward has stated that he has in mind a small office building or a small strip center, but once it is zoned commercial it can be any type of commercial use, such as a service station or store; it can be a lot of things. Mayor Countryman asked if that meant at this time nothing has been identified for that property. Mr. Yates said that is correct. John Champagne said he personally would be more apt to vote for something like that, if in fact there was an office complex, keeping in line with the historical nature of the other office complexes. John Champagne stated if there was nothing planned and they are just changing it to commercial for increased value he is not sure he would be for it. Jon Bickford said the challenge is they do not know what the plan is, if they do not know what exactly is going in at that location.

Mr. Ward stated that right now all he has is a letter from one of the people interested in the property and they are wanting it for a wedding venue. John Champagne said that was even better. Mr. Ward said they are currently operating in the City of Montgomery, and in addition to that use he has also had interest from a day care company that wants to put in a day care. Mr. Ward said the size of the property is just under three acres and is not really well suited for residential. Mr. Ward said he has had one person express interest in it, but what they described to him did not seem logical. Jon Bickford said once Mr. Ward sells his property he is out of it, unless he puts specific conditions on what could or could not be built. Mr. Ward said that he is going to be selective on who he sells the property to and what they sell to or if they can't sell it he will hold it for their own use down the

road. Mr. Ward said he was talking about a small office complex. Mayor Countryman said the merchant was in the wedding business not a wedding venue. Jon Bickford said he would probably be more comfortable if they knew, given where the property is located, he is sensitive to the location and what is around it. Jon Bickford said he did not know if this would be a problem for Mr. Ward or for what his plan for the property is, but it would seem to make more sense to bring this to City Council when he has a buyer for the property and the plan for the property would be presented to City Council. Jon Bickford said that would be easier to deal with than changing the use and stating what he wants to do with the property, but something could change and the City would not have any control over it and who knows what would be put in there.

John Champagne asked the City Attorney about having a conditional variance based on anticipated commercial use. Mr. Foerster said he did not think the ordinance speaks to that, he believed that City Council either granted the zoning or they don't. John Champagne said the question was could they make a motion to give a conditional variance based on anticipated, or what they would wish to be placed on the property in terms of a commercial entity. Mr. Foerster said the ordinance before City Council does not speak to that. Rebecca Huss said it would be basically rezoning with deed restrictions. Mr. Yates said that would be called contract zoning, which can't be done.

Rebecca Huss said that they have discussed the commercial historic district in the past, and it is really small and in order to expand it they are always going to come up with the problem of residential. Rebecca Huss said in order to expand you have to figure out another designation for light commercial or low impact commercial, such as galleries, restaurants or something acceptable, so there would be less risks involved for City Council and it would allow Mr. Ward to sell his property to someone that would understand the permitted uses that would be allowed. Mayor Countryman said that would give them a better idea as to what would be coming into that location. Rebecca Huss said this is a problem they have come up against in the past. Mr. Yates asked if it would make a difference if it was in the Historic District. Rebecca Huss said John Champagne's point is that once you rezone you lose control of the use, so this is a question on how you keep control of the use by rezoning, but let Mr. Ward use his land as well and still meet the City's goals. John Champagne asked if they could increase the size of the Historic District and have this commercial use fall under that. Mr. Yates said for the City to take it over, they would have to go through the process and said Mr. Ward could certainly apply for it to be in the Historic District. John Champagne said he could only speak for himself, and said that he was open to it, but he just did not want a machine shop going into that location. Mr. Ward said he did not want that use in there, and said he thought a day care venue sounded very nice.

Mayor Countryman asked whether Mr. Ward would be interested in applying to be included in the Historical District. Rebecca Huss said maybe they could postpone this action and see what kind of solutions they can come up with to achieve all of their goals. Jon Bickford said if someone has something and they are ready to make an offer that is contingent on this action that would be something that they could say was going to go into that location. Mr. Ward said he wanted to see how receptive City Council was to this use. John Champagne said he thought there was receptiveness by City Council regarding this, just under certain conditions. Mr. Foerster said as a point of observation, if the City Council chooses not to pass the ordinance at this time and then later Mr. Ward does have persons who state exactly what they want on that property, they will have to go through the public hearings and the process all over again. Mayor Countryman said that is what they would expect they would have to do.

John Champagne moved that City Council does not pass the ordinance as presented by the Planning and Zoning Commission.

Mr. Yates said, as a matter of clarification, the City Attorney said they could take away the ordinance for one meeting if they wanted to. John Champagne asked why they would do that. Mr. Yates said it would buy them some more time for Mr. Ward. Mr. Yates said they could table action on the ordinance.

John Champagne said he had no problem tabling the ordinance until the next meeting. John Champagne moved to table action on the ordinance until the next meeting. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

8. 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 A 7.710 ACRE PROPERTY, BEING TRACTS 23-A AND 24-A LOCATED AT THE SOUTHWEST CORNER OF OLD PLANTERSVILLE ROAD AND WOMACK CEMETERY ROAD, FROM "ID" INDUSTRIAL ZONING DISTRICT TO "R-1" SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE. (Kammerer Property)

Mr. Yates said this property is part of a larger tract of land and the seven acres is the part of the property that is located inside the City of Montgomery. Mr. Yates said this is part of a 400 acre tract that the owner is marketing right now as R-1 Single Family.

Rebecca Huss said they discussed this before and this is what the neighbors in the area were asking for when they were looking at the Fisher property. Jon Bickford said he could see nothing wrong with going from industrial to residential, and it is located in a residential area.

Jon Bickford moved to adopt the Ordinance and rezone the property from ID-Industrial to R-1 Single Family Residential. John Champagne seconded the motion, the motion carried unanimously. (5-0)

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

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF SECTION 545.356, TEXAS TRANSPORTATION CODE, UPON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION, UPON CERTAIN STREETS AND HIGHWAYS, OF PARTS THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200 FOR THE VIOLATION OF THIS ORDINANCE (Extending the school zone area on SH 105 by the High School.)

Mr. Yates advised this ordinance is per TxDOT's recommendation and is to extend the school zone from the west to the east 690 feet to the current boundary, which is near McWashington Drive/east of the football stadium entrance. Mr. Yates said the proposed eastern edge of the school zone would be approximately 200 feet east of the traffic light at Old Plantersville Road.

Rebecca Huss asked if TxDOT was going to move the speed limit signs as per the previous Resolution, because they still have not done the 45 mph signs on the east side of the City. Mr. Yates said he did not know why they have not done that yet. Rebecca Huss said TxDOT has moved the 35 mph signs but not the 45 mph signs. Mr. Yates said he would check on them. Jon Bickford asked if this was being requested by the City or TxDOT. Mr. Yates said it was being requested by TxDOT.

Jon Bickford moved to accept the Ordinance altering the prima facie speed limits established for vehicles under the provisions of Section 545.356 based on TxDOT's engineering and traffic investigation. John Champagne seconded the motion, the motion carried unanimously. (5-0)

10. Consideration and possible action regarding adoption of the following Resolution:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY TEXAS, TO EXPRESS ITS OPPOSITION TO LEGISLATIVE INTERFERENCE WITH LOCAL SERVICES, LOCAL REVENUE, AND LOCAL CONTROL.

Mr. Yates stated that this is regarding various Texas State legislative bills offered in this current upcoming session and in previous sessions that are thought to infringe upon the local control of city governments. Mr. Yates said that many cities are joining in the "Our Home, Our Decisions" lobbying effort of the Texas Municipal League. Mr. Yates said if passed, he will send a copy to Representative Metcalf and Senator Nichols, and to TML so they can add our name to their list.

John Champagne stated that if it pleased the City Council, he would like the honor of making the motion to approve this Resolution as proposed. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action regarding a request from Fernland, Inc. for funds to repair the Crane Cabin by Gareth Westlake.

Mr. Westlake stated that he is present representing Fernland Historical Park, and advised the Crane Cabin north wall has some logs that are rotting and it has gotten to a pretty bad state. Mr. Westlake said it has taken some time to find a company that would come and work on this type of cabin and do the repairs. Mr. Westlake said they have to remove the logs and replace them with brand new logs. Mr. Westlake advised they would save the inside of the logs so that it will look historically correct; on the outside the logs will look new for one summer until they age. Mr. Westlake said he was not here asking for any money, they do have money in their budget, but the issue is this is the City's cabin and Park. Mr. Westlake said they have done the work for the City as the Fernland Board, they have investigated a company to come and do the repair, with the numbers on how much they think the work will cost. Mr. Westlake said they are willing to put in over 80 percent of what they have in available funds to contribute to this effort. Mr. Westlake said he is happy to go to MEDC and have this conversation with them to see if they want to contribute some money, but ultimately this is the City's cabin to consider the repair.

John Champagne said he thought Sam Houston University owned the cabins. Mr. Westlake said that was a great question, and he actually got a copy of the contract that the City signed in 2010,

and it states that the City is responsible for the maintenance of the buildings, however, there is something in there about normal wear and tear that should be reviewed. Mr. Westlake said his recommendation is they should probably look at that first, and said he did think that it would be worthwhile regardless. Mr. Westlake said the contract states the City has to contact Sam Houston before they do any repairs anyhow, so he felt that it would be worthwhile to have the City reach out to Sam Houston to express the issue. Mr. Westlake said they are happy to be engaged in that conversation, but regardless, the cabin is in a state and eventually it will fail, but said that he could not say when that would happen. Mr. Westlake said when the logs reach a point they will eventually collapse.

Jon Bickford said Sam Houston State must know someone, because the City is responsible for maintenance and this is not maintenance, this is a structural issue and to him it goes way beyond maintenance. Jon Bickford said Sam Houston needs to start making some decisions about whether or not they want to maintain the structure because that is a pretty big amount to hit the City with. Jon Bickford said he thought the City needs to establish where the line is between maintenance and structural recreation with Sam Houston State. Mr. Yates said the last time that he had any dealings with Sam Houston State was over the roof of the Hulon House. Mr. Yates said they wrote a letter to Sam Houston State, and at that point our insurance was covering 90% of the cost and the City asked Sam Houston State for 10% and they refused to pay that. Mr. Yates said the more definitive response would be to try and get the proposition of their position about support of this because they are going to have more items like this.

Tom Cronin asked the lead time it will take to get the people from North Carolina in place. Mr. Westlake said they actually said they were booked up this year and the earliest they could get the City in would be December of this year, so realistically they are looking at next year.

Mayor Countryman asked if there were any other cabins that need this attention as well. Mr. Westlake said Mr. Newman has done a fantastic job of maintenance of the porches or replacing the smaller items, and said he did not think at the moment they have anything they are aware of like this repair, which is considerable. Mr. Newman said about the only thing that might be coming up will be the shingles for the two cabins, because they are deteriorating in places and they can't be replaced so a decision will need to be made as to whether the City wants to maintain the historic look and go back with wood shingles, which will be very expensive. Mr. Newman said he purchased some for the bell tower seven years ago and it was \$600 just for that small amount. Mr. Newman said there are not a lot of people making wood shingles in this area. Mayor Countryman

asked if that would be six months or six years. Mr. Newman said that would probably be a couple years, depending on the weather.

Tom Cronin then asked if the City Attorney could look over the contract and review the information. Mr. Foerster said the call should probably come from the Mayor or the City Administrator. Mr. Foerster said he will check with his contact at the Sam Houston State History Department, Dr. Jeffrey Littlejohn to see if the History Department has any connection to this or not.

Jon Bickford said that Mr. Westlake had said that he was not asking for any money. Mr. Westlake said he wanted to be very clear on this, stating that unfortunately the way that it was presented, which was probably his fault, they were not asking for the 1/3 of the funds; we can contribute up to a third, which is up to \$6,300, which is what they are offering and they would love to contribute if the City has to contribute. Jon Bickford asked to confirm the estimate is \$18,980 and Mr. Westlake is saying they can help with \$6,300, which would be a third of the cost and the majority of the funds they have on hand. Mr. Westlake said if they went to MEDC and they could do a third. Jon Bickford said he thought they needed to contact Sam Houston State to see if they can do it 100 percent.

John Champagne asked if it was possible to brace the cabin to keep it from falling down in the interim. Mr. Westlake said they probably could brace the structure if they thought it was a safety concern. John Champagne then asked what the average number of people was that are going through that park in a month. Mr. Yates said it was about 1,200 visitors. John Champagne said they need to find a way to get a \$1 from these people. Mr. Newman said they have discussed ideas for fees and they are trying to do it on a voluntary basis for all the tours that they are doing. Jon Bickford said there are boxes for donations at Fernland. Mr. Westlake said from the Fernland Board standpoint they are a 501c (3) organization so they can't have fees, they can do fundraisers. Mayor Countryman said there are a lot of photos that are taken at Fernland and asked if those funds go to the City or does it go to Fernland. Mr. Westlake said it goes to the City. Jon Bickford said there are boxes at the park and he did not know what donations come in because they do not get a report on what donations are being made. Mayor Countryman said they could get businesses to sponsor each cabin and they could help pay. Mr. Westlake said when they were originally tasked by City Council to put the park in place in 2010-2011, most of the work that was done there was privately funded; they got grants and talked to businesses, and got individuals to donate all the chimneys. Mr. Westlake said they could not move the cabins with the chimneys in place, so they

had people donate and rebuild the chimneys, which is incredibly expensive. Mr. Westlake said it might have been noted in the packets, if they have to empty their account to do this work they would absolutely have to try to get a grant so they can help with the next initiative. Mr. Westlake said they do have options to close the gap on this, but it comes down to who is ultimately responsible. Jon Bickford said he thought that was the key, and he thought that they did not think the City or the Board should get in the position where we take ownership of something we did not contractually take ownership of. Jon Bickford said if they keep going above and beyond, they are going to keep letting us do that. Jon Bickford said Sam Houston State has responsibility for something, just like we have responsibility for maintenance, but this is a substantial structural issue that goes far beyond what would be maintenance.

Tom Cronin asked to confirm that there was not a short term safety issue. Mr. Westlake said he was not going to make that statement because he is not an engineer and he does not know for sure. Mr. Westlake said the person that came out and looked at the cabin was not in a panic mode, but he did not know.

Mr. Newman said the scenario that we have before us right now did not just come on us, this has been repaired before when the Thorpe's' did it, which was in the 1970's, and some of that has deteriorated now. Mr. Newman said one of the things that they need to do, since it is still a City Park, they can only help and advice and some things that they can do physically, but they need to go in and seal all the wood structures. Mr. Newman said a church on FM 149 came down with about 60 people and they coated the structures with oil, which needs to be done every three years because that wood is old and moisture deteriorates it. Mr. Newman said he thought that they have done pretty well so far with the park, and they have not found too many big things and they have taken care of most things, but the logs are beyond their capabilities.

Mayor Countryman said Mr. Westlake mentioned grants and asked if they have explored those options for the Park. Mr. Westlake said there are options and grants available, they are not big money grants, and they usually just pay a portion of the cost. Mr. Westlake said if they have to do this project and use their funds, they would absolutely try and recoup the funds and go after some of those projects. Mr. Westlake said for many of the grants they want to see the project finished before they pay funds.

John Champagne asked who was going to spearhead this project. Mr. Yates said he would. Mr. Foerster said he would work with Mr. Yates. Jon Bickford said they might need to send Sam

Houston a letter regarding the contract. Mr. Yates said he would work with the City Attorney and he will be attending the Fernland Board Meetings. Jon Bickford said we can ask nicely and if that does not work they can send a copy of the contract.

Tom Cronin asked if they needed to make a motion regarding this matter. Mr. Foerster stated that he felt City Council had given he and Mr. Yates enough instruction on what they need to do next, so he would recommend they table this item and within the next two weeks hopefully they will contact Sam Houston State along with his personal contact with the History Department to see if he can be of any help.

Rebecca Huss moved to table this item. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding:

a. Mason Street options; and

b. Letter to Commissioner Mike Meador requesting 2019 street paving assistance.

Mr. Yates advised this item has to do with the Mason Street options. Mr. Yates said the City Attorney has concluded that Mason Street, the paved area between Maiden Street and Prairie Street, is a City public street, based upon its public use for more than 10 years as "right by prescription." Mr. Yates said the City Attorney has the opinion that the only way the street can be vacated is for a petition from Mr. Brosch. Mr. Yates said the only other way the city could otherwise control this property would be to make it into a park or plaza type area and change its use, as provided by State law. Mr. Yates said Mr. Brosch is no longer interested in any type of trade or a vacation of the street, he is interested in the street being paved.

Mr. Yates said if the City paves the road, the estimated cost would be \$14,000 because it is in such a state they would need to mill and add base. John Champagne asked what the City's budgeted amount for street repairs is for this year. Mr. Yates said what City Council did was put \$229,000 into contract labor/streets and that was essentially the difference between the expenses and revenue in the general fund. Mr. Yates said he thought they touched about \$5,000-\$10,000 of that amount, so he thought there was about \$220,000 remaining. John Champagne said then lets pave it, because that is what they are supposed to do, they are supposed to pave streets among other things. Rebecca Huss said that she would like to make it clear that Mason Street will no longer be allowed to be ad

hoc closed whenever they feel the need to string a lone across it. John Champagne said that is absolutely fine and understood; it is not their street.

Mr. Yates said the other item is they are asking Commissioner Mike Meador for assistance in paving Caroline Street from Liberty Street east to Prairie Street, and Mason Street from Maiden to Prairie Street, and also Wade Street from Old Plantersville Road to where Wade joins to Worsham Street. Mr. Yates said two or three years ago the City took over the ownership by prescription from primarily L.A. Washington, and at that time they said they would pave that road.

John Champagne asked if they could get moving on this project and try to get Commissioner Meador to help at the same time. Mr. Yates said yes, and said it was not begging or asking for anything, but the City has the right to request services from Commissioner Meador because everyone pays their County taxes. Mr. Yates said the arrangement is the City pays for the materials and Commissioner Meador pays for the machinery and labor.

John Champagne moved to repair the streets and send the repair letter to Commissioner Mike Meador as presented. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

13. Discussion regarding Live Streaming City Council Meetings.

Mr. Yates said this item was brought up by a City Council member who sent him information regarding video conferencing. John Champagne advised that it was about video streaming not video conferencing, but it could be video conferencing if they had a quorum and someone stayed home. Mr. Yates said when video conferencing, the person not attending the meeting in person can't vote during the meeting, but they can participate as long as the sound quality is good and the demeanor of the members is detectable, but if the quality changes they would have to stop the meeting.

Mr. Yates said live streaming the meeting seems like a very easy thing to do. John Champagne said almost every church in the County does it. John Champagne said his reason for suggesting this was it had been brought to his attention by people here. John Champagne said he thought it would be a pretty good idea and his motivation is to get more people aware of what is going on at the City and hopefully for them to get more involved in their City's government.

Mayor Countryman said once she was elected she started bringing this information up and they had started talking about it for the first six to eight weeks and then they kind of got derailed. Mayor Countryman said it would be a great thing to have for residents that are not able to attend the meeting, so they could have access. Mayor Countryman said she also knows the Montgomery ISD Board of Directors is looking into the same thing. Mayor Countryman said true transparency is always welcome. Mr. Yates said they would position the camera so they could get the staff table and podium and City Council. Mayor Countryman said they need better microphones. Mr. Yates said they would have to upgrade the sound system, but it would be worth it.

City Council concurred they were all in agreement that the live streaming and sound system upgrade would be great.

14. Discussion regarding grease trap requirements for restaurants in the City of Montgomery.

Tom Cronin said that he wanted to discuss a few things and asked if the monthly charge for grease trap inspections to an operator was \$50. Mr. Yates said it was either \$40 or \$50 for the inspection. Tom Cronin said it was \$50, and said if you operate a restaurant in the City you will get a \$50 charge every month for the City to check the grease trap. Mr. Yates said that is correct for them to check all the grease traps.

Tom Cronin asked what the mitigating factors that require an operator to install a grease trap; and who else besides a restaurant would be required to install a grease trap, such as a super market. Mr. Yates said possibly, but he would not think so. Tom Cronin asked about residual grease because he knows two supermarkets in town that fry chicken and they wash pots and pans. Tom Cronin asked if it was residual grease primarily or do they have to have a fryer in order to have a grease trap. Mr. Yates said any grease that goes down the drain. Tom Cronin said it could be residual grease then. Mr. Yates said yes. Tom Cronin said he was curious on the supermarket side because they do produce a lot of prepared foods, so he is wondering why they don't require that and do other cities require them to have grease traps. Tom Cronin said this information is for his own edification. Mr. Yates said he would find out that information.

Tom Cronin said he knows of one business that slipped through the cracks for 12 years. Tom Cronin said he used to sell some products to the original owners of that location in 2006, so he was wanting to know how the City makes sure that nobody else slips through the cracks. Tom Cronin asked how Mr. Mike Muckleroy, Director of Public Works, knows that someone has a grease trap;

does he have something in the file or does he just drive by and see if there is an operating grease trap. Mr. Yates advised the plumbing inspector looks into the issue every time there is a possibility, and there is a certain part of the Code that regulates what requires a grease trap.

Tom Cronin said he was curious and wanted to make sure, as he told Mr. Yates, that there is a level playing field for all operators, and this particular operator had fallen through the cracks so he wanted to make sure that no one else did. Tom Cronin said he would be curious about the supermarkets because they prepare food. Tom Cronin thanked Mr. Yates. John Champagne asked if everyone is in compliance in the City. Mr. Yates said everyone except one restaurant. Tom Cronin said he was looking at Exxon and they serve fried chicken, and asked if they are required to have a grease trap. Tom Cronin said this is probably opening a can of worms, but he was just curious why we might require certain ones and not others that do prepare food, and are they falling through the cracks. John Champagne asked if it has a direct effect on the City's ability to process sewage. Mr. Yates said it could have an effect. Mr. Yates said they had Patty Potty come and speak to the City about fats, oils and grease, which is a real problem during winter because of the colder weather and it hardens the grease.

John Champagne asked if Mr. Muckleroy would be put on this project. Mr. Yates said yes, along with Mr. Rick Hanna, Building Inspector. Rebecca Huss said they might have to go manually through the file and pull up all the commercial permits to see if they have kitchens, and if they have kitchens do they have grease trap inspections on their bill. Jon Bickford said the question is what constitutes a person meeting the need for a grease trap, what are the rules that say they are required to have a grease trap. Rebecca Huss said they might need to update the information as well. T.J. Wilkerson asked if that would also apply to churches. Jon Bickford said they need to find out when you need a grease trap and when you don't, what are the rules and what are the requirements. Jon Bickford said there has to be some set of rules that set out the information. T.J. Wilkerson asked if they have a grease trap at the City Community Center. Jon Bickford said the bottom line is they need to find out what the rules are regarding grease traps.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation

regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

15. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
 - a) Section 551.074 (personnel matters) related to Annual Review of City Administrator's Contract;
 - b) Section 551.074 (personnel matters) related to review of applications for the position of Police Chief; and
 - c) Section 551.071 (consultation with attorney).

Mayor Countryman adjourned into Executive Session at 7:25 p.m.

16. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 8:35 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

Jon Bickford moved to create a new employment contract for Mr. Jack Yates, City Administrator, for a period of up to seven (7) months. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

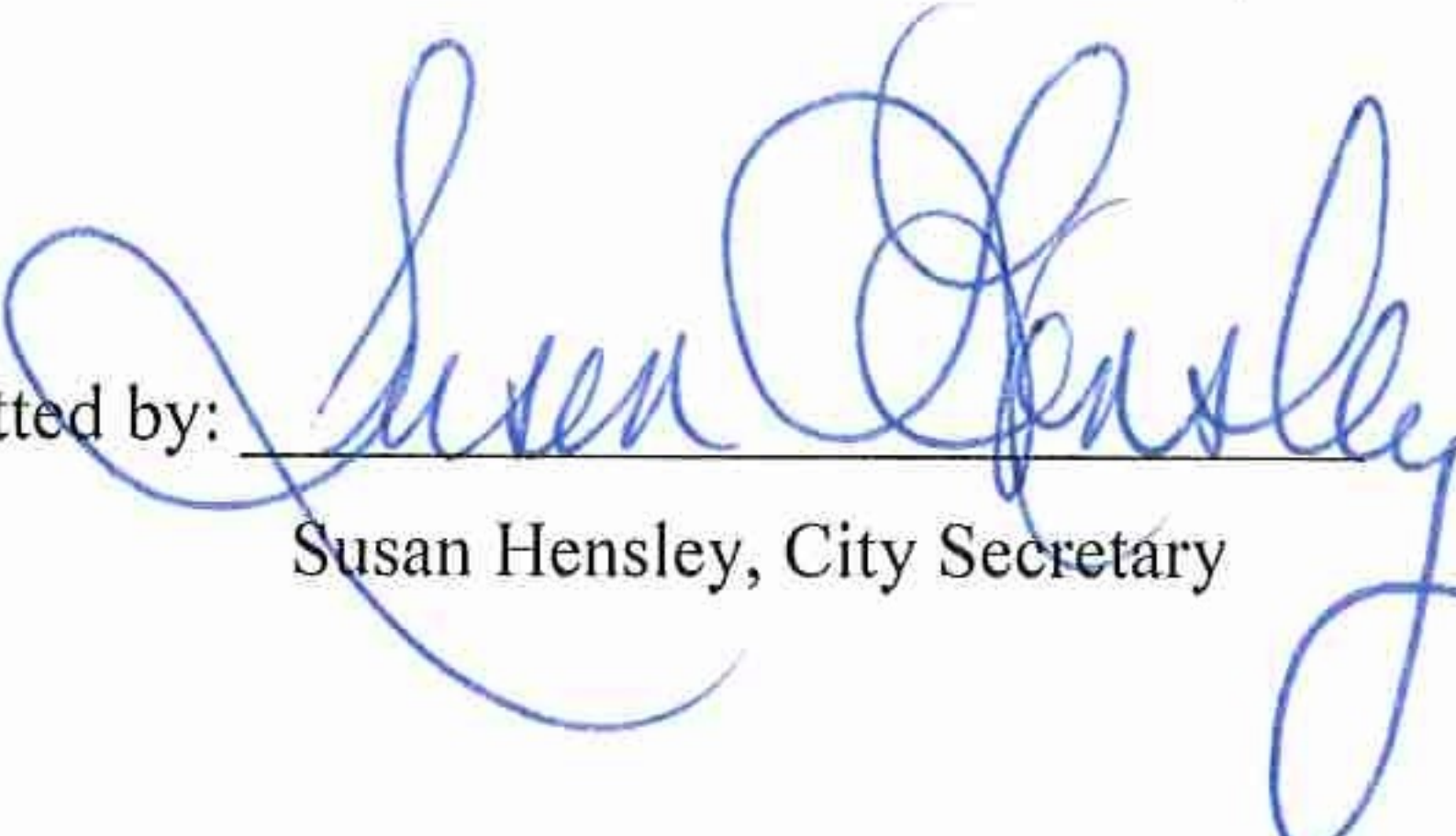
COUNCIL INQUIRY:

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 or inquiries made.

ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 8:36 p.m. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date Approved: 02/26
Susan Hensley, City Secretary


Mayor Sara Countryman

