

MINUTES OF PUBLIC HEARING and REGULAR MEETING

January 22, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:01 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
Larry Foerster City Attorney
Susan Hensley City Secretary
Chris Roznovsky City Engineer

INVOCATION

John Champagne 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 resulting from their Public Hearings held on January 7th and 14th, 2019, regarding the proposed rezoning of the property located at the southwest corner of Old Plantersville Road and Womack Cemetery Road, Montgomery from ID-Industrial to R1-Single Family, as requested by Michael and Judith Kammerer.

Mr. Yates presented the Final Report to City Council advising that by a vote of 4-0 the members of the Planning and Zoning Commission recommends the rezoning of this property from ID-Industrial to R1-Single Family because the property proposed use is consistent with R1-Single Family Residential zoning. Mr. Yates said the Commission found it in the interest of the community to reclassify the land use zoning designation from ID-Industrial to R1-Single Family Residential.

Rebecca Huss stated that this property is in the area where they had a lot of back and forth with another property that was originally thought to be dually zoned between ID-Industrial and Residential, where there was a lot of push back from the neighbors wishing the property was to be classified as residential because they were worried about traffic, so the request to zone it as R1 is consistent at least from what they heard from the neighborhood regarding property in that area.

Rebecca Huss moved to receive the Final Report from the Planning and Zoning Commission from their Public Hearings on January 7 and 14, 2019. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

2. **Convene into Public Hearing** – Regarding a request to rezone a 7.710 acre tract of land property located at tracts 23-A and 24-A in the Landrum Zacharias Survey, located at the southwest corner of Old Plantersville Road and Womack Cemetery Road, Montgomery from ID-Industrial to R1-Single Family, as requested by Michael and Judith Kammerer.

Mayor Countryman convened into the Public Hearing at 6:08 p.m.

There were no comments made during the Public Hearing.

Adjourn Public Hearing.

Mayor Countryman adjourned the Public Hearing at 6:09 p.m.

3. **Receive Final Report** from the Planning and Zoning Commission resulting from their Public Hearings held on January 7th and 14th, 2019 regarding the proposed rezoning of the 2.187 acre tract of land and 0.475 acre tract of land located at 1062 Clepper Street, Montgomery, Texas from R1-Single Family to B-Commercial, as requested by James Ward.

Rebecca Huss stated that on page 12 of the Agenda Pack it looks like a typo or it has been inserted; that is not James Ward's tract, it is a repeat of the Kammerer tract on the Final Report. Mr. Yates said Carol Langley, Commission member, abstained from voting because it was her employer that was making the application. Rebecca Huss said the description should state the 2.187 acre tract of land and 0.475 acre tract of land. John Champagne said the land was identified as 7.7 acre tract of land. Rebecca Huss said everything else afterward is identified correctly, but page 12 has the incorrect information in the report as to what tract it is and the owner of the tract. Mr. Yates said he would correct that information in the written report. Rebecca Huss said the other documentation is correct. Mr. Yates said that was correct.

Mr. Yates stated that Natalie Champagne and an adjacent property owner spoke at the meeting about drainage concerns and stated that she did not receive a mailed notice of the zoning change. Mr. Yates said the City Secretary can report on that information. John Champagne said he would like to hear the results. Ms. Hensley, City Secretary, advised that they did check with the Post Office and also ran electronic searches on the certified letters that were sent, and said that out of 11 certified letters to the adjacent property owners, only four of the letters had the green return receipts sent back to the City. Ms. Hensley advised four of the letters were lost in transit and have been moved around since before December 24, 2018. Ms. Hensley stated two of the letters are on their way back to the City, and they received two today that were never delivered and sat somewhere with the Post Office. Rebecca Huss asked if the Post Office gives the City the money back when their customer service is terrible. Ms. Hensley said they did track all of the certified letters and said all of the letters were in the system, sent out as they were supposed to, in fact they were sent out early due to the holiday season so they could make sure that people received them. Ms. Hensley said this is the first time that she has had this happen since she has been employed with the City and said the return receipt green cards usually come back pretty quick or the letter comes back. Ms. Hensley said they have never had certified letters take almost a month to come back. Rebecca Huss said four out of 11 certified letters is pretty terrible. Ms. Hensley agreed.

Rebecca Huss moved that they accept the Final Report from the Planning and Zoning Commission resulting from their Public Hearings held on January 7 and 14, 2019, pending Mr. Yates changing the wording of the Final Report to reflect the description of Mr. Ward's tract. John Champagne seconded the motion, the motion carried unanimously. (3-0)

4. Convene into Public Hearing – Regarding the proposed rezoning of the 2.187 acre tract of land and 0.475 acre tract of land located at 1062 Clepper Street, Montgomery, Texas from R1-Single Family to B-Commercial, as requested by James Ward.

Mayor Countryman convened into the Public Hearing at 6:15 p.m.

John Champagne asked Mr. Foerster if it was inappropriate to ask for some input from someone on the Planning and Zoning Commission as to their specific reason for approving this action. Mr. Foerster said this is a Public Hearing so they can engage in any kind of discussion that will allow the City Council to entertain comments and observations.

John Champagne said he was pretty neutral on this matter, but the Commission stated, and he paraphrased “that it would be advantageous to the City to have this put as Commercial” and asked if any of the Commission members present could give some specific advantages that they saw regarding this plat of land. Jeffrey Waddell, Commission member, stated from the beginning what was discussed was a boutique, small type of retail business. John Champagne asked in rating a property commercial, can those specific requirements and limitations be placed on that property. Mr. Yates said no. John Champagne said once it is commercial, it is commercial. Jeffrey Waddell said they were looking at some different situations. Mr. Yates asked if Jeffrey Waddell meant the connection between residential use and business use that requires the screening. Jeffrey Waddell said yes and also some limitations on space and type of use. Mr. Yates said the use would be anything that falls in commercial. John Champagne said it was a pretty wide net. Jeffrey Waddell said the Commission’s main question was about the buffer between the two types of uses, to make sure that there was a buffer especially on the back side of the property. John Champagne asked if that was in terms of the residential. Jeffrey Waddell said yes in terms of a green belt. John Champagne said the property is residential and City Council rarely goes from residential to commercial, and he was just looking for guidance as to what the Commission saw. Jeffrey Waddell said the red flags did go up and they definitely looked at it.

Jeffrey Waddell said there were also comments made that no one else on the street had problems with the change in use, but that is only informal. John Champagne said he has done some anecdotal questioning and got negative responses, but he could go either way on this matter, so he was just looking for some guidance. Jeffrey Waddell said regarding the drainage issue, they were assured that engineering would be done to approve the drainage.

Tom Cronin said being a business owner downtown, there is such a wide array of businesses that can go in there, light industrial, a machine shop, and said he just did not think something like that would fit esthetically downtown. Tom Cronin said he would love to see a boutique retail or boutique hotel, but there is such a big grab bag of things that can go in there and it really concerns him. Jeffrey Waddell said there is also the street itself. John Champagne mentioned parking issues.

Adjourn Public Hearing

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

Convene into Regular Meeting

Mayor Countryman convened into the Regular Meeting at 6:19 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.

There were no citizen's comments.

CONSENT AGENDA:

5. Matters related to the approval of minutes of the Regular Meeting held on January 8, 2019.
6. Consideration and possible action regarding adoption of an ENCROACHMENT AND MAINTENANCE AGREEMENT, between the CITY OF MONTGOMERY, TEXAS (CITY) and STYLECRAFT BUILDERS, INC., a Texas corporation (OWNER). Regarding certain property ("Property") located in the City of Montgomery, Texas on Scenic Hills Court, proposing to place a small retaining wall on the CITY's street right-of-way on Scenic Hills Court with the Subdivision's home owners association, the OWNER's successor and assignee, to maintain the small retaining wall at no cost to the City.

7. Consideration and possible action regarding Certificate of Acceptance for public water and public sanitary sewer infrastructure to serve the Hills of Town Creek Section III (Dev. No. 1019) including acceptance of maintenance bond.
8. Consideration and possible action regarding adoption of the Election Services Agreement by and between the City of Montgomery and Montgomery County Elections for the May 4, 2019 Election.
9. Consideration and possible action regarding adoption of the Joint Election Agreement by and between the City of Montgomery and Montgomery County Elections for the purpose of sharing jointly conducting elections to be held on May 4, 2019.
10. Consideration and possible action regarding road closures for the Antiques Festival as requested by the HMBA.

John Champagne asked about Item 10, and asked if planning by the City and Police Department had been done. Mr. Yates advised yes, it had be done.

Mr. Yates said regarding Item 6, the Home Owner's Association (HOA) issue that was discussed the last time this item was on the Agenda. Mr. Yates said the HOA has been added and they have signed the document. Rebecca Huss said to be completely honest at this point in the process, the HOA is 100% the same as the builder, so it is not like it is a third entity that has agreed to take on the responsibility; it is basically they don't know what they are getting into, but when they buy the property they will find out. Mr. Yates said it was the owner's and assigns. Rebecca Huss said she understood that it was basically in there officially and it protects the City, which is what Jon Bickford correctly pointed out needed to be included in the document, but the HOA is not an independent Association at this point. John Champagne stated there are others that are that way in the City. Rebecca Huss said presumably they will take over and find out what their liabilities are, but at this point it is basically the builder has assigned it to them.

John Champagne moved to accept the Consent Agenda as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

11. Consideration and possible action on Department Reports.
 - A. Administrator's Report- Mr. Yates presented his report to City Council. Mr. Yates said in addition to his duties he had worked on Atkins Creek and the payment to Kroger for the 380 Agreement, which is almost ready to be accomplished next week, along with the billing

for the escrow accounts. Mr. Yates said he has attached two items to his report this month, first being the inflow cost, which he would like to take back because of some additional information that he received from Mr. Randy Burleigh. Mr. Yates said he also attached a report on the last two years covering manhole inspections and smoke testing, and said he will make this a regular agenda item at the next meeting and do a more detailed report.

John Champagne asked if it would be safe to say the City does not have a good grasp on our cost for treating sewer and water. Mr. Yates said no, he would not say that. John Champagne asked why they can't get a cost on effluent processing. John Champagne said the reason he is saying that is because he is looking at Jones and Carter's assessment of our costs relative to what we are charging, and it is exponentially higher than what they are charging, so when he looks at the figures they are all over the board. John Champagne said to date he has not heard of a hard cost to process and he does not know the criteria in which we are using to establish the cost. Mr. Yates said he thought it was them coming up with the criteria that is the issue. John Champagne said he totally agreed and said, to him, this is important.

Mr. Yates said the other item that he has attached to his report is the Board of Adjustment information, which he had brought to City Council because there was a discussion at the December 11, 2018 City Council Meeting about the Board of Adjustment. Mr. Yates said he has the attendance record of the Board of Adjustment attached to the report. Mr. Yates said there are a couple of members that have only made one or two meetings. Mr. Yates said that each member of the Board of Adjustment shall be removable for just cause by City Council upon written charges and after public hearings. Mr. Yates said this would require them to conduct a Just Cause Hearing. Mr. Yates said the Board of Adjustment does not meet that often and they have always been able to have a quorum.

Rebecca Huss said she agreed that it is too hard to have a forced removal of a board member, but she felt they should ask Mrs. Jennifer Stewart and Mr. Tommy Hauser to resign or improve their attendance dramatically, because one meeting out of eight is an unacceptable record and is not what we expect of people that say they are volunteering and putting time into the City. Rebecca Huss said she would like to commend Mr. Nelson Cox, who has attended every meeting and also volunteers on other Boards. Rebecca Huss said when the City calls, Mr. Cox is always there. Rebecca Huss said when someone says that they are here for the City when they are in fact not, they really need to find someone else

who is more enthusiastic about the position. Rebecca Huss said she thought that they needed to start by asking them to consider resigning.

John Champagne asked what the alternate members do. Mr. Yates said they can attend the meetings and if there is not a quorum, they can vote. Rebecca Huss said on November 1, 2018 the Board waited until Carol Langley was able to come from work to attend the meeting, so they could have a quorum and get the job done.

Mayor Countryman asked if City Council would propose to have Mrs. Stewart and Mr. Hauser step down from the Board of Adjustment and move Mr. John Fox and Mrs. Carol Langley over to the Board, or would you ask to keep them as alternates. Rebecca Huss said that she thought they would have to reopen the process. Mr. Yates said that was correct. Rebecca Huss said at the very least, the City needs to strongly encourage those two members to resign.

Mr. Yates advised that, regarding the CDBG Grant for paving of Baja Road, the City accepted bids and the bids came in this time at \$93,000, which was basically what the first round of bids were. Mr. Yates said they had \$23,000 - \$24,000 from FEMA so they have a \$70,000 gap. Mr. Yates said Mr. Roznovsky, Mr. Muckleroy and he discussed the matter and since they had funds remaining from the CDBG Grant that was also regarding Baja Road, the bids came in so low on that project they had \$111,000 remaining in that grant. Mr. Yates said one of the three of them recommended that they contact the CDBG Grant and see if they could add the street to that Grant and the answer that they have gotten so far is yes. Mr. Yates said that will also mean that they will have to do an environmental review of Baja, so they will probably put off the paving of Baja a couple months, which is the bad news, but the good news is it is worth about \$70,000 to the City to go through that process. Mr. Roznovsky said there should be overlaps since the existing project is already on both sides of Baja. Mr. Roznovsky said this just came up Friday so they are having the grant writers to review the information just to make sure. Rebecca Huss said \$70,000 for paving covers a lot of extra footage, so that makes sense even if they have to delay the project a few months because they have already waited this long.

Mr. Yates said the other item was he received a denial from FEMA for repaving Plez Morgan. Mr. Yates said they could appeal that finding, but he did not know if the City would have a very good case for appeal. Rebecca Huss said she thought that FEMA had

already accepted the project a long time ago. Mr. Yates said in the early stages someone from FEMA said that they would try and run the project through the process, which was about three or four representatives ago. Mayor Countryman asked if it was just a verbal approval and nothing was in writing. Mr. Roznovsky said by the time the FEMA representative said yes the project should be covered because it is related to the bridge and this is the detour route, by the time she was working on the paperwork to approve the project FEMA switched her out and brought the next person on board. Rebecca Huss asked if this was paperwork denial. Mr. Roznovsky said this was a paperwork denial from FEMA. Mr. Yates said he thought they could do some testing of the road base and see where the worse parts of the road are and then do a seal coat or over coating of the road for about \$25,000 - \$30,000. Mr. Yates said that would be something that Commissioner Mike Meador could do, where the City would pay for the materials and Commissioner Meador's crew would do the work. Mr. Yates said it would be less than what they would have paid on the 25% share with the FEMA project. John Champagne said the road is being worn down appreciably on Buffalo Springs where CVS was taking fill out of that section behind Ransom's. John Champagne said that part of the road is going to require attention soon.

- B. Public Works Report – Mr. Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy said this is a combined report for November and December 2018. Mr. Muckleroy said they have completed the meter box assessment of repairs for the year, and installed all the Christmas decorations in the City and the entire department attended a Safety Class put on by TML, which he has on a thumb drive. Mr. Muckleroy said the Safety Class was a good class and was free. Mr. Muckleroy said they cleaned the sewer easement at Lone Star Estates in preparation for smoke testing and completed the first phase of smoke testing. Mr. Muckleroy said they conducted the quarterly heavy trash event, installed the Texas Flag benches that they ordered from the State at the sidewalk at Jacob's property lot and excavated the ditch at 905 College for better drainage. Mr. Muckleroy said they had the Christmas Parade setup and cleanup.

Rebecca Huss asked if they could put on the Agenda or put some time into quantifying how to either reduce the amount of trash and City time that they spend on the Christmas Parade, or increase the deposit that is put on the parade. Mayor Countryman said maybe they reduce the idea of throwing candy, which a lot of cities do. Rebecca Huss said when she ran the parade in Kingsville they had prohibited throwing things from floats; they could hand out candy directly to the people on the sides. Rebecca Huss said that was not to say

there was still a lot of trash, but the candy is a lot of effort and is just disgusting in downtown for a long time after the parade. Mr. Muckleroy said he thought that Dave McCorquodale had asked him what they were charging per hour, and he thought that Dave McCorquodale had already increased the fee on the parade application. John Champagne asked if guidelines were also included with the application. Mr. Muckleroy said that was correct. Rebecca Huss said they are still waiting until Monday, Tuesday or Wednesday when staff is all back on duty, and their value to the City is worth more than what they are charging. John Champagne said he agreed with that. Mayor Countryman asked Mr. Muckleroy how long it took them to clean up after the Christmas Parade. Mr. Muckleroy said it took three of the workers six hours or six and a half hours. Mayor Countryman said if they could take that six to six and a half hours down to an hour or hour and a half that would be valuable. Mr. Muckleroy said some of the events they have had required no time. Mr. Muckleroy said he knew that Mrs. Shannan Reid had really stepped it up the last couple of years with the events that she had regarding cleanup and they had to do no clean up. Rebecca Huss said she knew the Scouts were not told anything about not throwing candy and making sure that the candy went directly into someone's hand and said everyone is guilty of throwing the candy, and she did not know any way of doing it unless they ban the candy. Mayor Countryman said she thought it was really nice to see Mr. Muckleroy and 90% of his crew at the City Christmas dinner, and said that was the first time that all of the guys showed up and it was good to see them. Mr. Muckleroy said they only had one missing and he is new.

Mr. Muckleroy said they had seven water taps, seven sewer taps for the two month, 13 water leaks and two sewer stoppages. Mr. Muckleroy said the docents at Fernland Park reported a total of 1,371 visitors and they provided 77 tours for the two months.

John Champagne asked about the library parking lot, and said he did not know if it was runoff or a leak, but it is wet all the time. Mr. Muckleroy said it has dried up in the summertime. Mr. Muckleroy said if there is a leak it is going to be in the fire line that is dedicated for the library. Mr. Muckleroy said he talked to one of the Montgomery County maintenance workers about the water, and they said they would be willing to come out and dig up the parking lot to look for the leak. Mr. Muckleroy said he made the suggestion to pay a leak detecting company to come out and listen for the leak to see if they can locate it, but it was during the holidays, and they were supposed to get back with him, but he had not heard anything since. John Champagne said once again we are supposed to have a

closed system, and they need to find these breaches and if they can do something about them because this is a cost; we just do not know what the cost is. Mr. Muckleroy said he was not 100% convinced that it is a leak because it is such a steep hill. John Champagne said he did not know, but asked where the water is coming from. Mr. Muckleroy said there could be a spring or just uphill irrigation runoff. John Champagne asked if it would show up in the measurements for the pond or anything like that. Mr. Muckleroy said no, it would not. Mr. Muckleroy said he has been dealing with a company with an irrigation system because he did not know if they took a lighting strike or what, because they only have four zones coming on. Mr. Muckleroy said he has a company coming out to look at the system and do a complete evaluation by a professional. Mr. Muckleroy said he would contact Montgomery County to see what their plan is for the library parking lot. John Champagne asked if someone would get with Mr. LeFevre on all the drainage impediments that they have in the new development.

- C. Police Department Report – Mr. Yates presented the Police Report to City Council in the absence of Lt. Belmares who is attending a suicide prevention training class. Mr. Yates said there were no calls for service that were not answered during the course of the month. Mr. Yates said there were 179 citations issued and Sergeant Bracht attended training for the evidence room so that he can become the new evidence room officer. Mr. Yates said Sergeant Hernandez and Lt. Belmares have attended training with TxDOT for a step grant, which is extra hours that TxDOT pays the officers to run traffic primarily during the Christmas holiday, Independence Day, New Year's and Labor Day that will pay for extra patrol during those times.

Mayor Countryman said Officer Chris Carswell took it upon himself to have a Wild Animal Adoption in the front lobby for children to take home, and he even made Certificates of Adoption. Mayor Countryman thanked Officer Carswell and said "good job."

John Champagne asked, with all the training that is going on, whether this training is obligatory and has to be done now because his last understanding they were pretty shorthanded and asked how many officers they had out other than Lt. Belmares being trained. Mr. Yates said he did not think there was anyone else out. Rebecca Huss said from what she could tell, Officer Carswell's truck has been in the parking lot and he has been working a lot. Rebecca Huss said she thought the guys have been really great about doing

what needs to be done to keep the City going because they have a lot of really great people working here. Mayor Countryman said they have received some good feedback too.

- D. Court Department Report – In the absence of Mrs. Kimberly Duckett, Court Administrator, Mr. Yates presented the Court Report to City Council. Mr. Yates said there were 174 citations entered into Municipal Court last month and the total collected for 2018 was \$501,483 compared to 2017 at \$518,336.
- E. Utility/Development Report – Mr. Yates presented the Utility/Development Report to City Council advising that they collected \$138,440 for utilities last month; there were 49 permits representing \$16,837. Mr. Yates said they had 23 new water accounts and 13 disconnects for a total number of active accounts 719.

John Champagne asked what the arrears totaled. Mr. Yates said they were currently doing fairly well. John Champagne asked for the total number for arrears and how many days are the accounts in arrears. Mr. Yates said he would have to check on that information. John Champagne said he would be interested in knowing that information. Mr. Yates said the 30-60 days was roughly \$3,000 - \$4,000. John Champagne said that information should be part of this monthly report. Mr. Yates said he would get that information.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented the November and December reports to City Council. Mr. Williams advised in November they had three district alerts, one a damaged force main caused by a contractor while they were boring on Lone Star Parkway that they were able to repair and get back on line. Rebecca Huss asked if the contractor paid for the extra time and everything. Mr. Muckleroy said it was not their problem because they did not know where the force main was located; they told them the general area, without physically digging it up, but now they know where it is located. Mr. Williams said one of the other district alerts was due to rain events in the City, and the third alert was due to a blower surge that they were able to reset.

Mr. Williams advised the waste water flow for the month of October to November was 5.422 million gallons and the day of peak flow was November 1st at 357,000 gallons that is 89% of the permit and the daily average flow was 174,900 gallons at 44% of permitted value.

Mr. Williams said the effluent monitoring report shows that all samples were in compliance for November with 7.50 inches of rain. Mr. Williams stated the City sourced a total of 7.647 million gallons of water, flushed 778,000 gallons and they sold 6,344,000 gallons for 93% accountability. Mr. Williams reported that during the month of November they had an 85% return to the Sewer Treatment Plant.

Rebecca Huss stated that Mr. Williams is stating they had an 85% return to the Sewer Treatment Plant with 7.50 inches of rain and 65% return with 12.75 inches of rain. Mr. Williams said it was not only the rain but it is also a matter of irrigation. Rebecca Huss said it was not in November. Mr. Williams said the month before would be October, which would be the middle of September through October. Rebecca Huss said there were six inches of rain during that month, so people would not be irrigating. Rebecca Huss said those numbers are wrong and they have been wrong for a while. Mr. Williams stated that there are people that do not turn off their irrigations systems all year.

Mr. Williams said during December they had four district alerts, a sewer backup where they were able to clear the debris and have the sewer line flowing normally. Mr. Williams advised on December 1st they experienced a phase failure at the Waste Water Treatment Plant where they had two blown fuses that they had to replace. Mr. Williams said they had a high wet well at Lift Station #2 on December 7th due to rain, and on December 15th they had low water pressure at Water Plant #3 due to a broken water main from work that was being done on FM 1097. Mr. Williams advised the operator monitored the facility until the pressure was returned to normal.

John Champagne asked Mr. Williams if they are running the cooling tower right now. Mr. Williams advised they were not running the cooling tower. John Champagne asked when they stopped running the tower. Mr. Williams stated they stopped running the cooling tower in November.

Mr. Williams reported the effluent flow for the month was 5,093,000 gallons, daily peak flow on December 9, 2018 was 393,000 gallons at 93% of permitted value, Average daily flow at 169,800 gallons, which is 42 % of permitted value. Mr. Williams said the effluent monitoring report shows all samples were in compliance with 5.6 inches of rain reported. Mr. Williams stated they sourced a total of 6.629 million gallons, flushed 725,000 gallons, and sold 5.847 million gallons bringing them to a 99% accountability. Mr. Williams said

they are at the end of the year with 13 days left in this period with 7.25% left on the permit. Mr. Williams said they were all in compliance with the City's permit. Mr. Williams said they started the new permit on January 1, 2019 with a new amount of 90 million rather than 75,100,000 gallons. Rebecca Huss said well done and said they did an amazing job. Mr. Williams said they still had 30% of the City's Jasper permit.

Mr. Williams said the water sold versus water treated was at 87%. Rebecca Huss asked why their accountability in the November report was 93% but in the December report the November accountability drops to 90%. Mr. Williams said that was probably a typo that he would have corrected. Rebecca Huss said she just wanted to know which one was correct. Mr. Williams said he was positive that it was 93% for the month of November.

John Champagne asked how often all the mechanisms that measure these items on the report are calibrated. Mr. Williams said they are calibrated twice a year. John Champagne asked if that was standard operating procedure. Mr. Williams said that was correct. John Champagne asked what would cause a red flag to check the calibration on one of these devices to see if it was out of calibration or if it needs to be replaced more often than twice a year and whether that has happened. Mr. Williams said yes it has happened, such as on the sewer count; with the flow meter if that number starts to decline they will recalibrate the meter. Mr. Williams said the signal on the meter can change with the weather and if their deviation gets over 10% in either direction they will have it recalibrated.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised the Buffalo Springs Bridge project is complete and the waterline across the bridge is in service and the contractor is still addressing the punch list items. Mr. Roznovsky said the waterline improvements downtown have been approved by the Water Development Board and they are finalizing the plans for final approval.

Mr. Roznovsky stated that the Baja Road water and drainage improvements project contractor has received a letter stating that he is severely behind schedule and they have sent another letter today to his bonding company letting them know that he is behind schedule. Rebecca Huss asked if the contractor responded to the letter from Jones and Carter. Mr. Roznovsky said the contractor did respond, but not adequately and said the schedule that he provided was not sufficient and he did not meet the deadlines that are set out in the letter, which was five days to submit a report addressing specific issues. Mr.

Roznovsky said the contractor was notified again today. Mr. Roznovsky said last Thursday the contractor also caused a waterline break during the evening hours and Public Works was out there at 2:00 a.m. to get the service restored. John Champagne asked how the waterline break occurred. Mr. Roznovsky said the contractor was laying two pipes in close proximity. Mayor Countryman asked if it was due to the saturation of the ground. Mr. Roznovsky said the waterline break was not gross negligence by the contractor, his crews were out there making repairs. John Champagne said the contractor is grossly behind schedule. Mr. Roznovsky said that is correct and there is no doubt about that. Mayor Countryman said the contractor's work has been less than satisfactory. Mr. Roznovsky said that was correct.

John Champagne said they have a criteria in choosing a contractor, and asked what the predominant driver is when making the selection. Mr. Roznovsky said it was cost. John Champagne asked if they measured the cost in lost time, poor customer service and all the tangibles and intangibles that go into choosing a poor contractor. Mr. Roznovsky said it was harder to do on these grant projects because of the funding requirements and criteria involved. John Champagne said at some point, while he knows that free money is very alluring, if they measure the costs he is not so sure it is. Mayor Countryman asked if they were not cleaning up what Montgomery County did in the first place with free money. Mr. Roznovsky said a portion of the project is cleanup of what Montgomery County did in the first place. John Champagne said they were still doing a job inadequately. Rebecca Huss said she wanted to state a qualifier, the City is not going to finish the job inadequately like the job was originally done, because she feels with confidence that the City's oversight is far superior to what occurred the first time around. John Champagne asked what the cost was for that, because there is a cost. Rebecca Huss said there definitely is a cost. Mr. Yates asked what the amount of the second bid was. Mr. Roznovsky said the contractor's low bid was \$179,000 and the second lowest bid was \$320,000. John Champagne said you could not tell by him because they have no idea what it is costing. John Champagne said he was disputing the process of selecting the contractor. Rebecca Huss said it is definitely a different process. John Champagne said it is very easy to pick that low number. Rebecca Huss said if you look at some of the projects the City has done and the amount of grants that the City has received, they would not have lowered the taxes this year and had those projects completed. John Champagne said he was not saying across the board, he was saying, as a rule, he has seen in the nine years he has been here, we take the low number.

Rebecca Huss said it has been an unfortunate byproduct of free money, but she would not walk away from the free money for the bridge or to fix roads.

Mr. Roznovsky said the reason they bid the Baja project was to get a better price, and the low bidder before he realized his math error was \$75,000, he wrote a square foot versus a square yard price, so when he carried out the math his \$22,000 bid became a \$200,000 bid. Mr. Roznovsky said since what he wrote governs not his math, he was no longer the low bidder.

Mr. Roznovsky advised that TxDOT has moved off site on the Atkins Creek project, and they are waiting on a more definitive plan before they proceed with any additional work, so they are continuing to have discussions with TxDOT. Mr. Roznovsky stated, regarding the FEMA project for the water and sewer lines further downstream, they still expect FEMA approval by the middle of February 2019. Mr. Roznovsky said the project team that was on this got switched out, so they are on a new project team, but prior to that everything was submitted.

Mr. Roznovsky said on the GLO funds they are still waiting for the contract to come back from the State to the City on those projects. Mr. Roznovsky said the Utility and Economic Feasibility Study was underway for the Woods of Town Creek and they expect to present the study at the March 12, 2019 meeting. Mr. Roznovsky reported that the plan reviews for Exxon came back last week and was approved for the parking lot only.

Mr. Roznovsky stated the developer for Lake Creek Village advised that they are waiting until the weather is more favorable before they begin work on the ditches and culverts.

Rebecca Huss asked if the City has the FEMA reimbursement to the construction or general fund because Mr. Roznovsky had stated that FEMA requested the City to provide additional information. Mr. Roznovsky said they provided that information but he did not believe that they have received anything from FEMA. Mr. Yates said FEMA has had everything for five to six weeks, and about once a week he sends a threatening letter telling them how much they need the funds and how late they are in providing them, because there are several that are pushing four months. Rebecca Huss said it is a good thing the City did not borrow that money and paying interest on the money that they have not delivered in a timely fashion.

H. Financial Report – Mr. Yates presented the Financial Report to City Council. Mr. Yates advised the following balances: General Fund - \$724,870, Capital Project Fund - \$3,418,154 with about \$2 million of that is TWDB funds, Utility Fund - \$1,047,974, and the total funds on hand for the City is \$5,998,476. Mr. Yates said the General Fund has a positive balance for this year of \$96,104, but that will be reduced next month because they have to pay Kroger, but next month will also be the quarterly sales tax payment so he expects \$125,000 to \$150,000 more in sales tax. John Champagne asked how much will be coming in and going out from Kroger. Mr. Yates said coming in will be about \$107,000 for Kroger. Mr. Yates said the Capital Projects Fund is minus \$511,000 because of the two large expenses of \$210,000 for the bridge and \$288,000 for the 18-inch gravity line. Mr. Yates said the 18-inch gravity line is not shown, but they have carryover from last year so they are okay cash wise, because they received the funds last year and they have the expense this year. Mr. Yates said the Utility Fund has \$269,290, which is very good for that fund.

Rebecca Huss said under miscellaneous expenses, which they should have as few things as possible under, she saw they were over budget by \$81,000 for miscellaneous expenses, and then realized it is the SH 105 – FM 149 property. Rebecca Huss said that expense should not be under miscellaneous expenses and could be put anywhere else. Mr. Yates said they have a line item for that expense specifically for the land purchase.

Rebecca Huss moved to approve the Departmental Reports as presented. Tom Cronin 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 OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 4, 2019, FOR THE PURPOSE OF ELECTING THREE (3) CITY COUNCIL MEMBERS, PLACES 1, 3 AND 5; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

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

13. Consideration and possible action regarding City Engineer services.

Mr. Yates advised this was a report item and was not the final action. Mr. Yates advised he had attached an up to date budget for a 40-hour per week Licensed Professional Engineer capable of preparing plans, inspecting work by City contractors and subdivision improvements, plus the other items on the job description. Mr. Yates said the City would still need Jones and Carter for planning, but he thought they could save approximately \$100,000 per year.

Mr. Yates said an alternative to a full-time person would be to contract with Jones and Carter or another engineering firm to provide a specific person at a specific rate of pay to accomplish the duties of the job, perhaps at less than 40 hours per week. Mr. Yates said he and Mr. Roznovsky have discussed an option where Jones and Carter could assign a specific engineer to the City and we would treat that person as though they were an in-house person for an hourly rate.

John Champagne asked if Jones and Carter would be amenable to presenting a situation that would reduce revenue to Jones and Carter and make it more effective for the City of Montgomery. John Champagne said Mr. Yates stated it would save \$100,000 for one scenario, and asked if they could have a value proposition on these two or three options. John Champagne said he has very clear in his mind what a value proposition is, and said if Mr. Yates wanted to discuss it, he would love for a value proposition to be presented to City Council that would empirically show what we believe the savings would be and the advantages and disadvantages. Mr. Yates said he would figure that information. Rebecca Huss said she would like to be a little bit more specific or have some more back and forth as to what the duties of the in-house engineer would be, because she thought there is a lot they could do or there is value in farming out certain things. John Champagne said that would be a good place to put a value proposition. Rebecca Huss said there is a lot more work to be done before they advertise, but she is 100% behind going forward with making progress toward this idea because where the City was four or five years ago, even three years ago in terms of the amount of activity in the City, we need a full time engineer on staff. John Champagne said if he can see the information on paper, and said he knows that Jones and Carter knows how to prepare a value proposition, because if you take one engineering firm off a certain municipality you have to show them where the value is, which is what he is asking for because their fees might be higher, but the City's cost could go down.

Mr. Yates said he would get together with John Champagne sometime next week. John Champagne said that he would send Mr. Yates a template for the value proposition.

Rebecca Huss said this is really not an action item, just direction to keep moving forward with putting numbers behind the information.

14. Water Plant Inspection Report by Jones and Carter Engineering.

Mr. Roznovsky advised they had started on this report back in the summer and delayed the actual inspections until after the summer heat was over. Mr. Roznovsky said this was a full mechanical and electrical inspection of both the water plants, including interior inspections of the facilities, electrical controls of the facilities and the lighting, etc. Mr. Roznovsky said all of the results are summarized in the report, and if there are any problems they have a photo with the recommendations to fix the problem. Mr. Roznovsky said there was a number system that shows who is covering what item, and if there is an immediate concern whether it can be taken care of in house.

Mr. Roznovsky said the high points are there are a lot of recoating work at Water Plant #3 and since there is an active project out there, the recommendation is to include that recoating scope with the contractor that is going to be doing the work because it makes sense to do it all at once. Mr. Roznovsky said this is not something that Public Works or Gulf Utility is able to do. Mr. Roznovsky said all the other items were 90% covered by Public Works or Gulf Utility to make the minor repairs.

John Champagne asked what were the options regarding mitigating the corrosion problem. Mr. Roznovsky said it was either to do the recoating or procure. Mr. Roznovsky said these items have deteriorated enough where a top coat won't hold, so they have to blast it down to bare metal and recoat so that it applies.

Mr. Roznovsky said all the items are listed in the report, with a couple items to note that are when they looked in the Ground Storage Tank at Water Plant #2 there is sand accumulation at the bottom of the tank, and for the number of years the amount of sand is not abnormal. Mr. Roznovsky said the tank was cleaned out and put back into service and what they discussed with Public Works is taking it down a little more frequently and monitoring the level to see if there is something there. Mr. Roznovsky said since the well performance was at the same time there is no issues there, and the rest are miscellaneous items.

Rebecca Huss said she would love to see the inside of Water Plant #2 and said it was very interesting to see all that sludge before it migrated.

15. Consideration and possible action regarding calling a Community Meeting on February 28, 2019 to discuss the Comprehensive Plan.

Mr. Yates said this is the same person that came before City Council several months ago, Walter Peacock of Texas A&M's Texas Target Communities, who has been working on a State of the Community Report that he will present at the Community Meeting. Mr. Yates said Mr. Peacock has done enough research and gathering of information where he would like to come and meet with the community and get the community's input on the Comprehensive Plan on February 28, 2019. Mr. Yates said Mr. Peacock also wants to come and give a preliminary presentation to the Planning and Zoning Commission on February 25, 2019 and City Council on February 26, 2019 prior to the Community Meeting. Mr. Yates said the purpose of the Community Meeting on February 28, 2019 is to give the report to the community and to get some feedback from the citizens.

Mr. Yates said they intend to put a news release out in the newspaper and also have something in the water bills to invite the community to the February 28, 2019 meeting and explain why we feel it is important for them to attend. Rebecca Huss asked that they put a notice on the electronic billboard and social media to announce the meeting.

Rebecca Huss moved to direct City staff to organize a Community Meeting on February 28, 2019 to discuss the Comprehensive Plan presented by Walter Peacock of Texas A&M. Tom Cronin seconded the motion, the motion, 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.

16. 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; and
- b) Section 551.074 (personnel matters) related to review of applications for the position of Police Chief.

Mayor Countryman adjourned into Closed Executive Session at 7:26 p.m.

17. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 8:23 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

Tom Cronin moved to direct the City Attorney to prepare a new contract, as discussed, for the current City Administrator; and then direct the current City Administrator to advertise in TML and other City Administration and appropriate search vehicles for a replacement; and direct the City Administrator to follow the rough outline along with the City Council that he prepared for the transition. John Champagne seconded the motion, the motion carried unanimously. (3-0)

COUNCIL INQUIRY:

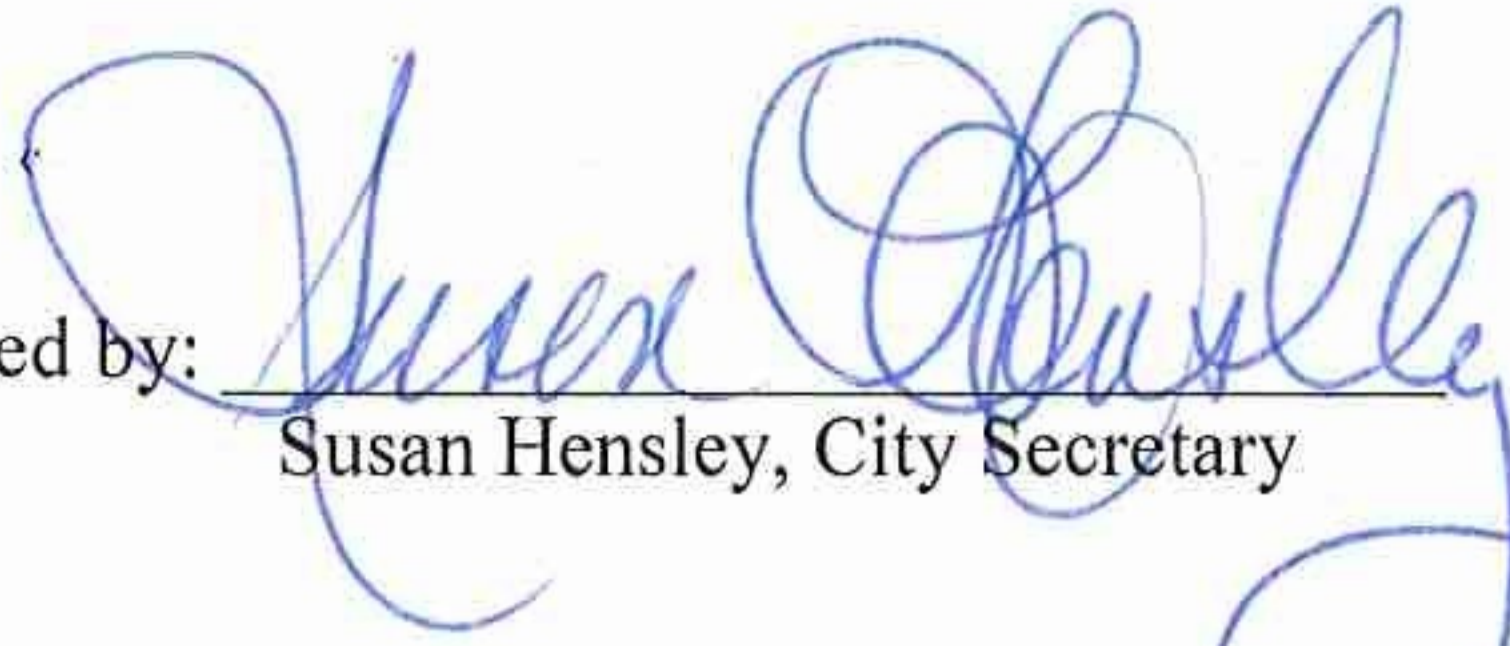
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

There were no comments.

ADJOURNMENT

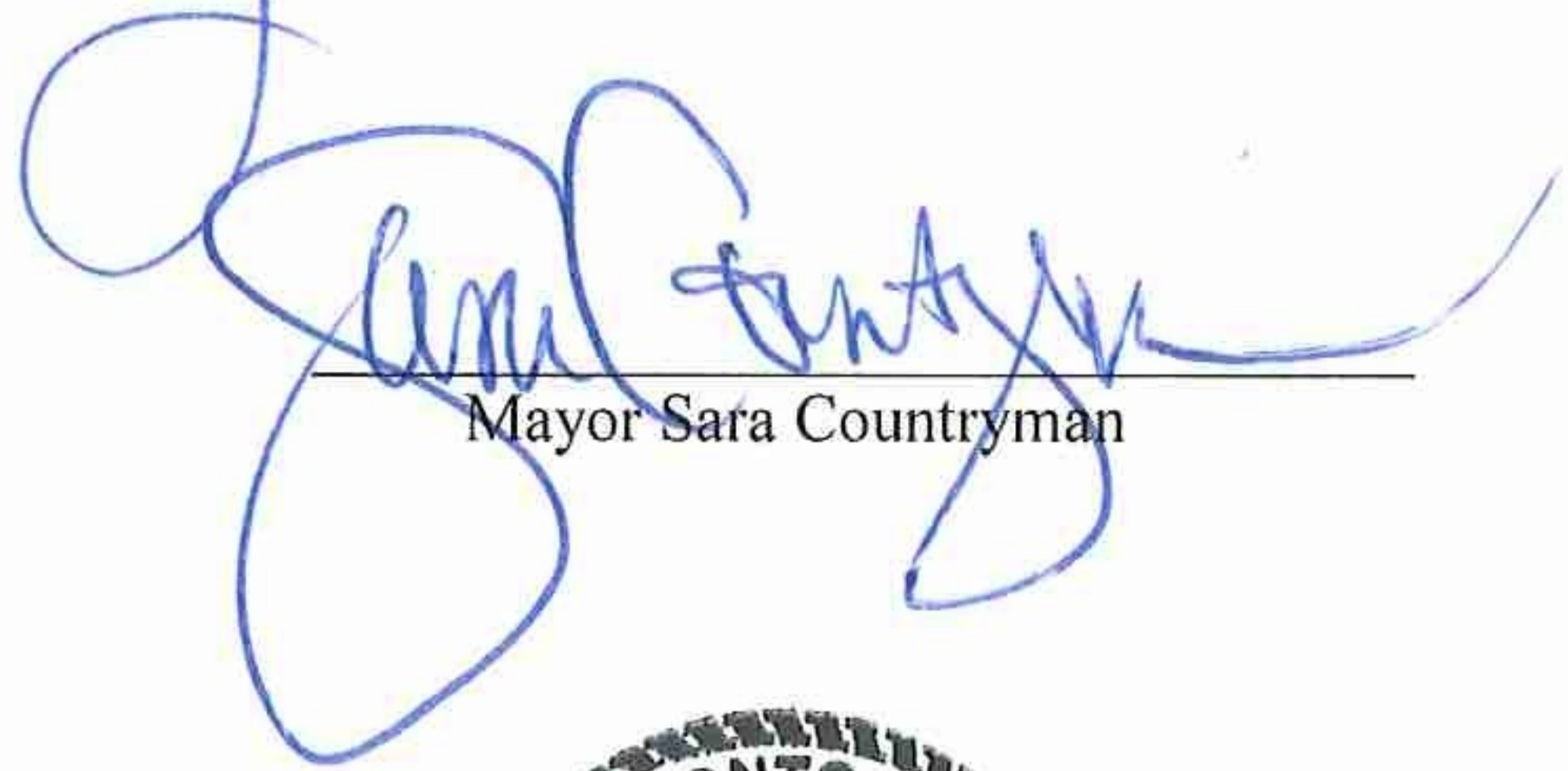
Rebecca Huss moved to adjourn the meeting at 8:25 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (3-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

02/12/2019


Mayor Sara Countryman

