

AMENDED NOTICE OF REGULAR MEETING

November 13, 2018

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a **Regular Meeting** of the Montgomery City Council will be held on **Tuesday, November 13, 2018 at 6:00 p.m.** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas for the purpose of considering the following:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

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

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on October 23, 2018.
2. Consideration and possible action regarding scheduling a public hearing for rezoning of a 7.710 acre parcel property located at tracts 23-A and 24-A located at the southwest corner of Old Plantersville Road and Womack Cemetery Road, Montgomery from ID-Industrial to R-1-Single-family to be held on January 22, 2019 at 6 p.m. as requested by Michael and Judith Kammerer.
3. Consideration and possible action regarding scheduling a public hearing for rezoning of a 2.187 and a 0.475 acre properties located at 1062 Clepper Street, Montgomery from R-1 Single-family to B-Commercial to be held on January 22, 2019 at 6 p.m. as requested by James Ward.
4. Consideration and possible action to correct the Official Zoning Map of the City of Montgomery to reflect ID-Industrial Use for the 2.148 acre tract of land located at 1005 Old Plantersville Road as ID – Industrial as requested by Mrs. Theresa Fisher.
5. Consideration and possible action regarding adoption of an Escrow Agreement by and between City of Montgomery and Living Savior Lutheran Church regarding the Living Savior Lutheran Church tract (Dev. No. 1813).

6. Consideration and possible action regarding renewal of a firewood sales Special Use Permit for Dewitt Lawson at 14611 N. Liberty Street, Montgomery, Texas.

CONSIDERATION AND POSSIBLE ACTION:

7. Consideration and possible action regarding a Petition for Approval of the Creation of Montgomery County MUD No. 150.
8. Consideration and possible action regarding direction to the City Attorney and City Administrator for preparation of an Animal Control Ordinance.
9. Consideration and possible action regarding authorization to City Administrator to expend an additional \$7,000 for acquisition and demolition cost of city property at the southeast corner of FM 149 and SH 105.
10. Consideration and possible action adoption of the following Ordinance:
AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY OF 1.758 ACRES OF LAND, MORE OR LESS, IN THE BENJAMIN RIGSBY SURVEY, ABSTRACT 31 AND THE ZACK LANDRUM SURVEY, ABSTRACT 22, TO THE CITY OF MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE.
11. 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.
12. Consideration and possible action regarding inviting applications for an open position on City Council.
13. Buffalo Springs Bridge Report by the City Engineer.

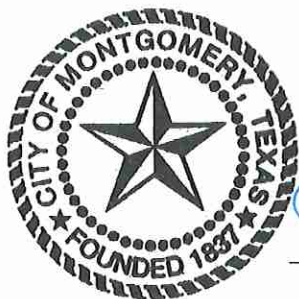
EXECUTIVE SESSION:

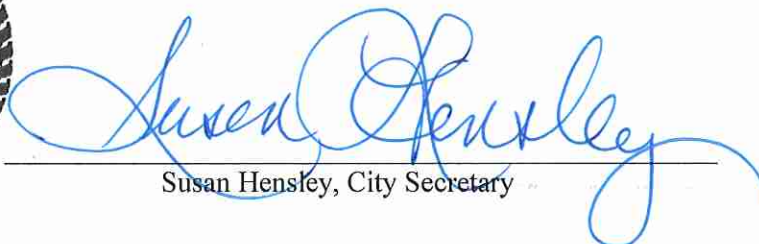
The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding 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. *(No items at this time.)*

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.

ADJOURNMENT




Susan Hensley, City Secretary

I certify that the attached **amended** notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 9th day of November 2018 at 4:30 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

MINUTES OF PUBLIC HEARINGS AND REGULAR MEETING

October 23, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:05 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4

Absent: John Champagne, Jr. City Council Place # 2
Vacant City Council Place # 5

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):

1. Receive the Final Report from the Planning and Zoning Commission, resulting from their two public hearings held on September 24, 2018 and October 22, 2018 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.

Mr. Yates advised that the Planning and Zoning Commission met last night and conducted their second Public Hearing on this matter. Mr. Yates said the Commission was requested by Mr. Jacobs to not make their decision or present their Final Report to City Council because Mr. Jacobs has talked to other property owners in the area and he might want to change his request to a larger area. Mr. Yates said since there is no Final Report from the Commission, City Council will not be able to conduct their Public Hearing because City Council is required to receive the Final Report from the Commission prior to the Public Hearing. Mr. Yates said that Mr. Jacobs realizes City Council will have to call a new Public Hearing and that can't be done earlier than the November 13, 2018 City Council Meeting for the December 11, 2018 Meeting. Mr. Yates said if they were to delay the Public Hearing past next month, because it will come back to the Planning and Zoning Commission next month for their Final Report, it will be too long of a period of time between the Public Hearings. Rebecca Huss said she assumed that this was related to something that they discussed at a prior City Council Meeting, which is the need for a workshop to discuss how to deal with this entire area and the issue of the lack of cumulative zoning and how to work with the other property owners to have a more comprehensive plan for this area, rather than the piece meal rezoning. Rebecca Huss asked if that was something that City Council could accomplish before they embark on the piece meal rezoning. Mr. Yates said probably not because the Planning and Zoning Commission just heard the Cumulative Zoning Report and the Table of Uses Report last night at the meeting with no action taken. Mr. Yates said it would be at least a month or two before the Commission really has enough information accumulated and is in agreement to pass anything along. Mr. Yates said that Mr. Jacobs did not say that was the reason he was thinking of a larger area. Rebecca Huss said perhaps talking to Mr. Jacobs about the possibility of a workshop to consider some of those other items, and if Mr. Jacobs is talking about other landowners as well, maybe they could do something more comprehensive in conjunction with the work that the Commission is doing. Rebecca Huss said if it was a workshop then they are not deciding things they are just discussing them. Mr. Yates asked if this was an offer from the City Council to meet with the Planning and Zoning Commission to move the process along. Rebecca Huss said it could include whatever landowners that he is working with to try and figure out what they want to accomplish and how they can make it work best for the City, because that is what City Council said they wanted to do. Mayor Countryman said City Council had discussed everyone getting together during the previous meeting. Rebecca Huss said she felt that it would be better than putting it off and then not having any idea of what the landowners are going to

come up with, and said she felt it would be better if they worked together early rather than having a final product from any of the different Boards or landowners. Mr. Yates said he would pass that information on to Mr. Jacobs.

Convene into Public Hearing:

2. **For the purpose of giving all interested persons the right to appear and be heard on 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.

The Public Hearing was not conducted.

Adjourn Public Hearing:

Convene into Public Hearing:

3. **For the purpose of giving all interested persons the right to appear and be heard on the proposed annexation by the City of Montgomery, Texas of the following described land: Being a tract of land containing 1.758 acres comprised of 0.22 acres in the BENJAMIN RIGSBY SURVEY, A-31, and 1.538 acres in the ZACK LANDRUM SURVEY, A-22, both in Montgomery County, Texas. Said 1.758 acres being out of and a part of a 6.75 acre tract conveyed by deed from Mary A. Hooker to Hy. C. Furlow and recorded in Vol. 38, Page 217 of the Deed Records of Montgomery County, Texas, and also being out of and a part of a 0.99 acre tract conveyed by deed dated November 17, 1928 from Mrs. W.H. Bailey to H.C. Furlow and recorded in Vol. 120, Page 202, of the Deed Records of Montgomery Country, Texas. (Second of Two Hearings)**

Mayor Countryman convened into the Public Hearing at 6:12 p.m.

Mr. Yates advised this was the second of two Public Hearings regarding the Al Cade annexation who is annexing and said the property is located directly south of the Napa Store and completely surrounded by the City.

There were no comments made during the Public Hearing.

Adjourn Public Hearing:

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

Reconvene into Regular Session:

Mayor Countryman convened into Regular Session at 6:14 p.m.

VISITOR/CITIZENS FORUM:

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Mayor Countryman stated that she wanted to state for the record that the following was not a felony, during the mid-1990's she wrote a check that was hot. Mayor Countryman said that she moved and then not until a few years later, when she was pulled over for no seatbelt, did she learn that there was a warrant for her arrest. Mayor Countryman said she went to jail for a few hours and paid the fine and moved on. Mayor Countryman said thank you.

Mr. Bob Stewart stated that he had some pictures of a manhole cover that is located behind his residence and said for the last two weeks sewer has been flowing out of it onto his property. Mr. Stewart said the toxic human waste was relatively disgusting. Mr. Stewart advised 50 yards down the stream from this is another manhole cover that has a tree growing out of it. Mr. Stewart said clearly the sewer line has not been maintained. Mr. Stewart said he has lived here for 20 years and there are two times that they know of that the City has ever come out to look at the sewer line. Mr. Stewart said as he thought about the maintenance of this toxic waste it reminded him and perhaps this is a metaphor for what is going on in the City right now. Mr. Stewart said the citizens of Montgomery do not elect the Mayor and the City Council to create a toxic environment, so full of harassment that our Chief of Police is unwilling to work here any longer. Mr. Stewart said the Chief of Police is by far the most qualified Chief of Police they have ever had in this City, so qualified that the President of the United States hired him to provide protection last week in Houston. Mr. Stewart said the Chief of Police is qualified enough to provide protection for the President of the United States, but apparently we don't, as citizens, have the opportunity any longer for him to provide protection for us. Mr. Stewart said they elected City Council to represent the City and the people within this City, and the vast majority of them want Jim Napolitano as their Chief of Police. Mr. Stewart said hopefully City Council's practice of toxic harassment will come to an end now that you have created the situation and he has left and things

can get along much better and hopefully the City will work hard to hire someone that is equally qualified to protect and serve the citizens.

CONSENT AGENDA:

4. Matters related to the approval of minutes of the Public Hearing and Regular Meeting held on October 9, 2018.
5. Consideration and possible action to authorize the change of beverage permit classification for the Hodge Podge Lodge Beverage Permit Application.
6. Consideration and possible action regarding adoption of the following Resolution: Resolution designating the Courier Newspaper as the Official Newspaper of the City and Authorizing the City Administrator to execute a Contract.
7. Consideration and possible action regarding adoption of the following Resolution: A RESOLUTION OF THE CITY COUNCIL OF MONTGOMERY, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) APPLICATION TO THE TEXAS GENERAL LAND OFFICE, AND AUTHORIZING THE MAYOR AND/OR CITY ADMINISTRATOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG – DR PROGRAM.
8. Consideration and possible action on cancelling City Council second meetings of the month for November and December, 2018.

Jon Bickford asked about Agenda Item 5 and what classification they are moving it to. The City Secretary advised the owner is adding a mixed beverage permit application in addition to the beer and wine permit they already have.

Jon Bickford asked why the Courier is selected versus the Montgomery paper and whether it was due to circulation. The City Secretary advised that was correct.

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

CONSIDERATION AND POSSIBLE ACTION:

9. Consideration and possible action on Department Reports:

A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates said the Board of Adjustment will be meeting regarding Dusty's Car Wash that wants to put in an 80' foot high flag pole. Mr. Yates advised that Dusty's Car Wash is zoned commercial and the height requirement is 45' feet so they are asking for a 35' foot variance. Mr. Yates advised the Living Savior Church is asking for a variance for a 57' foot high steeple. Mr. Yates advised the plans for the appearance of the Church were approved last night by the Planning and Zoning Commission. Mr. Yates said the hearings for the variances will be held on December 12, 2018. Mr. Yates advised that he and others had met and interviewed prospects for the Tourism Promotion position.

Mr. Yates said he had received a letter from the Fernland Board and Rotary Club regarding Memory Park and the formation of the Park Board. Mr. Yates said he has also spoken with Mr. Clover regarding Cedar Brake Park. Mr. Yates said all three of those representatives of the Parks would like to have a meeting with City Council before the formation of the Park Board. Mr. Yates said he thinks their concerns are about hypothetical questions, such as, what kind of changes the Park Board can do, and whether they can install new fees, hours of operation, who handles the money and issues that they have all been struggling with for most of his 3 ½ years and the Park Board was something that was discussed when he was interviewed for the position. Mr. Yates said they were almost there a couple of years ago with the Park Agreements with each of the Parks, but they did not quite close the loop, so his question is what City Council wants to do and said that either he or the groups need some direction and information. Jon Bickford said it would make sense that they try and schedule some time with the representatives, maybe each of the Boards independently and then maybe all together. Mr. Yates said he would suggest a big square table meeting and get everyone together at the same time. Jon Bickford said they could do that, as well. Mayor Countryman said she thought that was an excellent idea. Mr. Yates said he would work on that.

Mr. Yates said he wanted to point out the excellent work the TORC (Technical Operations Review Committee) group has been doing. Mr. Yates said this was a group that was set up around four months ago, and since then they have developed a work flow process and milestones agreement for TORC. Mr. Yates said the TORC has reviewed the operation of

Water Plant #3 Cooling Tower and evaluated the use of Memory Park pond water for irrigation. Mr. Yates said they also researched the equipment needed for Memory Park irrigation, and developed the retail usage examples, which is a table that will be used by the Impact Committee when they review the Impact Fees. Mr. Yates said the TORC also brainstormed on ways to improve City traffic, including recommendations that were made to the school that were accomplished as part of the school traffic patterns. Mr. Yates said TORC also commented on the relocation of Lift Station #1, and the monthly water bill report that is done by Randy Burleigh, who also developed a water usage projection tracker that shows that even though there are more customers in the City we are using less water than last year. Mr. Yates said they have also reviewed and commented on water and sewer usage through 2023. Rebecca Huss said it was important to point out that it matters when they kick off the new well and new sewage treatment plant, which means a lot on how much they borrow so that is a really critical number. Jon Bickford said it is not how much they borrow but when they borrow the funds, because when they borrow the funds they will still need to put in a well. Rebecca Huss said to some extent yes, although if you assume that we have 5,000 customers who use 20,000 gallons per month versus 5,000 customers that use 10,000 gallons per month, it could actually determine that we could potentially need a smaller well. Jon Bickford said even so, if it costs a few dollars more to put a bigger hole in the ground, it would be more expensive to bring him back. Mr. Yates said it is important enough to be a separate report. Rebecca Huss said the question that Jon Bickford just asked is something that they provide proof and critical input on, as well. Jon Bickford said he thought it was awesome to have the TORC, plus he felt that it would help if they have to address anything with TCEQ or anybody else, they have good background behind it. Mr. Yates said that one of the members of TORC just gave him an analysis of everyone in the system that could save money by going to irrigation meters. Mr. Yates said there are 28 people that will get an individual letter stating their water consumption and showing why it would pay for them to get an irrigation meter. Jon Bickford said at the end of the day he would like to save the citizens money because that is a great thing to do, but he does not want to encourage people to use more water. Mr. Yates said he did not know that it would encourage people to use more water. Jon Bickford said he was aware of a particular neighborhood where people have installed a second meter and they run water like it is going out of style because they are not paying near as much as they would if they were being charged for both water and sewer. Jon Bickford said he felt they are not seeing

that the impact is causing people to be a bit indifferent about how much drinking water they actually use, and he always wanted to see if they could use recycled water from the sewage treatment plant, purple pipe water. Jon Bickford said he would like this to be thought about a little more, he understood and he said it was a great thing to provide residents, but we need to understand the implications of that too because indirectly he felt they would be encouraging people to use more water to water their lawn because it will cost less and they will be using twice as much water and asked if that was what they really wanted. Mr. Yates said that ultimately the resident is still paying for the cost of the water, and if the City can save the sewer expense then it will work out alright. Rebecca Huss said they were saving the sewer expense anyway, what they are giving them is free sewer. Jon Bickford said that was because the water is not going to the sewer system. Rebecca Huss said her guess would be the 28 people who do not have the meter are probably not the ones who are not way over of the arbitrage and they are probably less financially savvy so they would be less likely to increase their water usage and put it on their lawn. Mr. Yates said the cost of the second meter is roughly \$1,100 for the meter and installation. Jon Bickford said water is the most precious commodity that they have and he felt they need to do everything they can to encourage conservation any way they can. Jon Bickford said providing outlets to use more water for less money, to him, is not consistent. Rebecca Huss said she thought it was just making the customer service aspect of something that we already offer more broadly available. Jon Bickford said he was not inclined to support sending out letters to people that talks about how to get more water for less money to sprinkle your lawn. T.J. Wilkerson said he would probably go up on the irrigation meter. Jon Bickford said then you would accomplish nothing and you may as well leave things where they are. Jon Bickford said maybe the question is do they want to encourage not using more water or do they want to encourage more water usage. Jon Bickford said he was not saying that the meters would encourage a person to use more water, he is saying it certainly won't encourage them to use less water. Jon Bickford said if he paid \$1,100 for the meter he might get the thought that he needed to use more of the cheap water to make up for the \$1,100 he paid to have the meter installed.

Mr. Yates said they could assign the TORC the assignment to compare the usage of people that have irrigation meters to those users that only have one meter to see how much more or less the customer uses.

B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council. Mr. Muckleroy stated they replaced several street signs, held a successful heavy trash weekend and completed the fire hydrant tagging on Lone Star Bend. Jon Bickford asked what was fire hydrant tagging. Mr. Muckleroy advised it was assigning an identification number and GPS coordinate for each hydrant. Mr. Muckleroy said as each new development comes into the City, after they are complete they tag all the fire hydrants and submit the information to Jones and Carter for GIS. Mr. Muckleroy said they had almost a week and a half of their time taken up with the in-house crack sealing, stating they completed Buffalo Springs and C.B. Stewart Drive. Rebecca Huss asked how much money would the crack sealing have cost if they had outsourced the project versus doing it in-house. Mr. Muckleroy advised he had not gotten a quote on the project, but based on the same amount of product that they put down last time it would have been in the \$20,000 to \$25,000 range and doing the project in-house they spent, with labor and everything, \$7,000 to \$8,000 range. Jon Bickford asked if that included the rental of the machine for the crack sealing. Mr. Muckleroy said that was correct. Jon Bickford asked how much it cost to rent the machine. Mr. Muckleroy advised it cost \$2,900 for two weeks and would cost \$16,000 to purchase. Mr. Muckleroy said they did crack sealing once last year, and they want to do it two times per year. Mr. Muckleroy said there is a lot of maintenance to own the machinery. Rebecca Huss said she could not believe how much money we saved doing it ourselves. Mayor Countryman said Mr. Muckleroy was very good at managing his funds.

Mr. Muckleroy advised they had eight water taps, six sewer taps, four water leaks and zero sewer stoppages for the month. Mr. Muckleroy said for parks and recreation, they checked all the electrical outlets downtown for the Wine Festival and made repairs and they installed a bull rock drain at Memory Park for the handicapped parking area. Mr. Muckleroy said the docents at Fernland reported 363 visitors and they provided 35 tours for the month.

Jon Bickford said he was made aware recently of a tree growing out of a manhole cover, and said he did not know if it just popped up or had been there for 10 years, and asked if the City was aware whether that is indeed a sewer line. Mr. Muckleroy said it was a sewer line. Jon Bickford asked if the City knew who planted a tree in there. Mr. Muckleroy said

no one had planted a tree in the manhole it just grew. Jon Bickford asked if Mr. Muckleroy knew where the manhole was located. Mr. Muckleroy said this is the first time that he is hearing about this information. Mr. Muckleroy said this is the first line that is on the list for the smoke testing they are getting ready to perform. Mr. Muckleroy said they have known for a while that is a hot spot for infiltration. Jon Bickford said the tree might be blocking something. Mr. Muckleroy said it could be. Mr. Muckleroy said one of the items they had asked for this year was for an flail mower attachment for the mini excavator, which they are getting next week and will aid in shredding a four inch diameter tree. Mr. Muckleroy said what they want to do is go in first and clear the right-of-way, inspect the manholes, then fix the problems and come back the following week and smoke test. Jon Bickford said they could pull out that tree versus just cutting it off. Mr. Muckleroy said they should be able to get the roots removed. Jon Bickford said as long as they caught the problem that is good, and said they need to get on that. Jon Bickford said if anyone else has anything like that try to report it before it gets too big. Jon Bickford thanked Mr. Muckleroy and said it was great work again.

- C. Police Department Report – Lt. Joe Belmares presented his report to City Council. Lt. Belmares said he wanted to comment on this past month's National Night Out, where they had a tremendous turnout and if you missed the large group of community members along with children, it was the best turnout they have had in years. Lt. Belmares said he was floored at the number of children that attended doubled or tripled the adults. Lt. Belmares said they had plenty of sponsors that helped with the event and he was very grateful for the turnout and the sponsors. Mayor Countryman said they even fed a little bit of the Fire Department. Lt. Belmares said they had the Montgomery Fire Department, Montgomery ISD Police Department, McGruff, and they had sponsors from Kroger, Brookshire Bros., Walmart, Bobbie Jo Skinner with Montgomery SnoBalls, Reggie's Barber Shop who paid for the awesome face painter, McDonald's, Interstate Battery and Amegy Bank. Lt. Belmares said he hopes during this next year they will start early and get more of the businesses in the City involved to help with donations or whatever they want to help with for the event. Lt. Belmares said they had a slow start so he is hoping to make the event bigger and better this coming year.

Mayor Countryman said there was a photographer at the event and asked to receive the photos for the new City website. Lt. Belmares said that he would do that, and said that the photographer had donated her time for the event at no cost to the City.

Mayor Countryman said she had signed a check on Friday with a rather large amount payable to our new phone provider that has the data for the cars, and asked why that check was so large and said it looked like it was four or five months of charges. Lt. Belmares said that was correct it was for our AT&T First Net System for first responders and is for any systems that go down as far as the phone lines or MDT lines, they are the first to come back in line so they can respond for calls from service and things of that nature, which was four months in arrears. Lt. Belmares said he had to reach out to AT&T to find out who their point of contact was so they could address the debt, and they have made him the point of contact so they could take care of the arrearages and they have been addressed. Mayor Countryman asked what the process was to get that bill paid and whether it was just a simple forward of the bill. Lt. Belmares said yes, they send the bill through email and they print the bill out and turn in for payment. Jon Bickford said that they were expecting the cost of that coverage was going to get dropped and asked if Lt. Belmares was seeing that reduction. Lt. Belmares said he has to go into the actual system to see what the phone lines are costing and he will do a comparison with the Verizon bill because they just recently dropped Verizon. Jon Bickford said the reason that they dropped Verizon was because they were going to save so much with AT&T, so the question is are they really saving money. Lt. Belmares said he also had to pay the final bill with Verizon.

Mayor Countryman asked how the transition is going and whether Lt. Belmares has been able to find everything that he needed as far as pass codes and all of the authorized information. Lt. Belmares said he has gotten everything transferred over, which has taken some time to reach out to the businesses and the points of contacts for the transition so he can have access so if they do have any bills or outstanding debt he can address them and get them taken care of. Rebecca Huss said outstanding debt is a bad thing because the City has an excellent credit rating for the City as a whole for millions of dollars and she would hate to ruin that on a bad phone bill. Lt. Belmares said he was filtering through multiple emails and researching to make sure that we are all caught up.

D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett said the Court had a successful month collecting \$50,959.23 in September. Mrs. Duckett said the numbers for citations were a little down, and she felt during the transition it had fluctuated a little bit and she felt they would end the year very successfully. Jon Bickford said what might be good on the report would be if she did a year to date so they can compare the figures. Jon Bickford said if Mrs. Duckett added everything up through September for 2017 and then added everything up for 2018, that way they could see where they stand. Rebecca Huss said they would have to subtract December, November and October to get the year to date figures. Mrs. Duckett said she understood. Jon Bickford said it was good to see how they are trending and it is good to see the future months because they are doing great.

Mayor Countryman said that she knew there was a large number of outstanding warrants and asked if Mrs. Duckett was still able to get on those and asked if that was some of this information. Mrs. Duckett said yes, the warrants that are outstanding if they not filed in a timely manner they do not pursue them, but as far as past due warrants and things like that they are able to still do collections on those outstanding citations. Rebecca Huss said that is something that they have not seen for a while is the outstanding warrants and asked if Mrs. Duckett could do a full year summary for the November Report. Mrs. Duckett said yes, since December is going to be the slow month, she is going to work with the Judge to get all of the warrants processed. Mrs. Duckett said they are going to add one court date for the month of December and the Judge said he would come in to make sure all the warrants were taken care of for that month. Rebecca Huss said so that they can see how many warrants that they have that are old, because in the past they had an idea of what they had in outstanding and uncollectable warrants. Mayor Countryman said this was a good job. T.J. Wilkerson said he thought the report looked good.

E. Utility/Development Report – Mr. Yates presented the report to City Council. Mr. Yates advised the utilities brought in \$185,488 with 699 active accounts, including 12 new accounts. Mr. Yates stated that they have been adding approximately 10 new accounts every month. Mr. Yates advised they brought in \$32,114 for 45 permits, 8 were new residential, 4 new commercial and the others were electrical, mechanical, plumbing permits and sign permits. Mr. Yates said the Community Center brought in \$1,400 from four

bookings, with 10 non-profit uses. Rebecca Huss asked if the next report could include the total revenue for 2017 and 2018 for the Community Center because it feels like they have had a couple of large months of revenue and she would be curious if the rental, while not necessarily paying for itself, but if there has been a trend since they fixed the building and if they are getting more people interested in booking the Community Center. Mr. Yates said he would get that information. Mr. Yates said the City water account consumption is very low except for Memory Park.

Mr. Yates asked Mr. Muckleroy to give a quick report about the status of the irrigation from the pond. Mr. Muckleroy said they were pretty well set on the project, he just needed to start ordering parts and begin installation. Mr. Muckleroy advised the irrigation for Memory Park was completely turned off at this time due to the rain and they are working on some repairs.

Jon Bickford asked about the photography permits at Fernland and asked where they are seeing them in relation to last year. Mr. Yates said they are down from last year, and now they have started issuing day permits for \$25.00 a day. Mr. Yates said he did not know if the annual permit fee was too high. Jon Bickford said as soon as the docents leave the Park the photographers come in and they are over at Memory Park too. Jon Bickford said the good news is they are seeing a little bit less wear and tear on the park when the docents are at the park, but he is still worried when they are not there. Mr. Muckleroy advised that since they have installed the video cameras the problems they were having with furniture being moved has been eliminated. Jon Bickford asked if they can see who is taking pictures at the park. Mr. Muckleroy said he goes by the docents and when they report to him, he does not check the camera on a regular basis.

Water Report – Mr. Michael Williams with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams advised during the month of September they had one district alert, which was Lift Station #2 where they had a variable frequency drive (VFD) failure. Mr. Williams said Lift Pump #3 had tripped and the operator was able to reset the pump and after testing, everything was normal.

Mr. Williams advised the daily effluent flow for the month of August – September was 3,485 million gallons and the daily peak was September 13, 2018 at 200,000 gallons, and the average daily flow was 116,200 gallons. Rebecca Huss said the peak flow seemed really low considering the rain gauge registered almost two inches. Mr. Williams said the equipment is in calibration, which they have checked twice a year, during the winter and summer. Mr. Williams said they do not have anything to report on the equipment.

Jon Bickford said the cumulative total of rain for the month of September was eight inches, and said that would average approximately two inches per week. Jon Bickford said he was just trying to understand how they use so much water at Memory Park when the City is getting two inches of rain per week. Jon Bickford said he knew they have rain and moisture sensors, but two inches a week is a lot of rain and it is not all at once it is steady rains. Mr. Muckleroy said when they know it is going to rain, like right now they have the irrigation turned completely off. Mr. Muckleroy said he thought there was a problem himself with the amount of rain that they are getting. Mr. Muckleroy said they were trying to figure it out, which is why they have the system completely off. Jon Bickford said if he put two inches of water a week on his lawn he would not be able to walk on it. Jon Bickford said if they are looking into the matter that is great.

Mr. Williams advised they sourced a total of 12.422 million gallons of water and sold 10.678 million gallons, bringing them to an accountability of 87%, which is lower than what they normally see. Rebecca Huss said that is terrible. Mr. Williams said he got with Public Works and they checked ditches and they checked the cooling tower with no obvious signs of a leak. Rebecca Huss said there is still that one under the parking lot at Montgomery Steak House, which she did not think had been located yet. Mr. Muckleroy said they dug a little bit looking for it, but at the time when they found it the storm drain that it would go into was completely dry and Accurate could not pinpoint the exact location of the leak. Mr. Muckleroy said when they started digging it up the line did not do what a normal tap would do as far as leaving the meter and going straight to the main, it actually turned dead south and started heading back toward Caroline Street. Mr. Muckleroy said they did not want to rip up the asphalt for a quarter of a gallon a minute leak that they are claiming that they heard on leak detect. Mr. Muckleroy said they will wait until it surfaces. Mr. Muckleroy said that leak would not be an 87% accountability leak. Mr. Williams said

Mr. Muckleroy did mention that he had seen, over the last couple of months, some water theft and reported it to the Police Department, so he is trying to keep an eye on that to make sure that they are not stealing water. Rebecca Huss asked if they could really lose that much water from theft. Mayor Countryman said they could if they are filling up tanks. Mr. Williams said they look to be about 1.5 million gallons shy on their accountability; it could be partly theft, construction and then leaks. Mr. Muckleroy said they went down on the deposit for the hydrometers because he felt they might be driving contractors to take a chance of stealing water, so they went down to \$500. Mr. Muckleroy said his guys, if they see a boring contractor in town, will stop and make contact with them and try to promote them getting a hydrometer, but there is a ton of boring contractors right now on the east side of town inside and outside the City limits. Mr. Muckleroy said he caught a contractor yesterday just as they were hooking up to the trailer, so he knew they were going to fill up because they were empty, so he called the Police Department and they will be issued a ticket. Mr. Muckleroy said that Officer Carswell advised him that the City of Austin has an ordinance that has a lot more bite, and he is going to look into the information. Mayor Countryman said with all the growth that they have going on in the City they certainly need to get something in place. Mr. Muckleroy said it is impossible for his crews or the Police Department to be everywhere. Rebecca Huss said with all the time they have spent talking about the value of water, then the penalties for stealing and/or wasting it should be more commensurate. Jon Bickford said they would not allow someone to steal gasoline like that. Mr. Yates said he was going to write a press release to get the word out to the public, because the fine is \$180. Jon Bickford said that did not seem high enough. Rebecca Huss said that does not even cover the cost of the water. Mayor Countryman asked what the amount of the meter deposit had been changed to. Mr. Muckleroy said it was \$3,000 and he reduced it to \$500. Mr. Muckleroy said the \$3,000 was just to cover the cost of the meter itself. Mr. Muckleroy said he has been with the City four years and he has not had a meter stolen. Jon Bickford said they might need to put sensors on the hydrants, and asked how many times a day a hydrant goes off. Mayor Countryman said there is a lot of activity there; it could be often. Mr. Muckleroy said they do make locks for the hydrants, and the rough estimate for City wide was \$80,000 to get locks on every hydrant.

Mr. Williams said they have a quarter of the year left and they still have roughly 25% of the Catahoula Permit remaining, and 53% of the Jasper Permit, so they are looking good

and they are getting into the slower months so they should not see any issues with that. Mr. Williams said this month they have 33% of water sold to the sewer plant. Rebecca Huss said she could not believe that, with six inches of rain and only 33% returned.

Mayor Countryman said there seems to be a strong chlorine smell to the water. Mr. Williams said they had an issue last week, when the wells turn on it opens up a cylinoid to feed chlorine gas to disinfect the water; when they arrived at the plant the cylinoid was found open and they had to manually close the valve because it did not automatically shut off when the well shut off. Mr. Williams said they drained water out of the tank, flushed the system until they got a lower residual and cleared that out, but there might still be a residual of a strong chlorine smell. Mayor Countryman asked if they can put something on the web site stating that the residents might be experiencing a strong chlorine smell and it is being rectified. Mr. Williams said he would get with Mr. Muckleroy about getting that put on there. Mayor Countryman said that would be great. Mr. Williams asked if there were any other questions. Rebecca Huss said the return numbers do not seem right, which means the other numbers do not seem right.

- F. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky said they have received and approved pay estimate #9 for the Buffalo Springs Bridge in the amount of \$162,205.85. Mr. Roznovsky spoke about the Atkins Creek Water and Sewer Project, stating they have completed all the required analysis that FEMA needs and they are finalizing the report, which they should have it all submitted in the next week and be able to finish up the project.

Mr. Roznovsky said they received the Request for Information No. 1 for the GLO Projects on October 3, and Grantworks was able to get a bunch of those addressed and they were able to return the information in the time frame required. Mr. Roznovsky said they followed up today and the timing is not known, but at least there has been some action and they are starting to ask questions.

Mr. Roznovsky noted on the developments list a couple changes, and said they returned comments to Exxon, and they also received plans for the donut shop yesterday. Mr.

Roznovsky said they did do the one year warranty inspection for Lake Creek Village, Section 3 on Friday and the developer is working on the punch list.

Mr. Roznovsky said the Catahoula Well Permit was approved by Lone Star Ground Water Conservation District at their October 9th meeting, the increase in the permit, so they have another 14 million gallons per year of increase that gives a total of 90 million gallons per year from the Catahoula Well. Rebecca Huss asked about the status of the payment for the Catahoula Well Permit, if it goes into effect immediately upon receipt of payment. Mr. Roznovsky said that check was sent a couple days ago. Mr. Yates said he was not sure if they had it last week or if it was being paid this week. Rebecca Huss said she liked having a little extra room in our permit level so they don't use it up, and it is not effective until they pay for the permit. Mr. Roznovsky said where they are this year they have plenty of room to use. Rebecca Huss said that is assuming that nothing happens to Wells #2 and #3, so if they have to rely on the other they need that permit, and noted that she did not believe in using the conversion credits if they don't have to use them. Rebecca Huss said she would prefer that they bank the conversion credits unless they need them for an emergency, so she wanted to make sure that they paid the permit fee not only because they should pay their bills, but because they might need it.

Mr. Roznovsky said that regarding the Lone Star Project that they talked about last month, they have scheduled a meeting with TxDOT on November 6th to further discuss and keep moving that project forward. Mr. Roznovsky said the Annual Water Plant inspection was also scheduled for November 6th.

Rebecca Huss asked about the south bound turn lane mentioned, with the comments sent back to Exxon, and asked if Mr. Roznovsky could provide them with some information on the turn lane. Mr. Roznovsky said that was provided to set up a meeting with the City to discuss, so they received comments back, and they sent a request to TxDOT saying how much exactly they needed and TxDOT advised that they need an 8 ½ foot strip along the triangle piece at the corner, so they provided that information to the developer of Exxon and requested a meeting be set up to figure out the next step. Jon Bickford asked if it was south bound or north bound. Mr. Roznovsky said it was south bound. Rebecca Huss said it was south bound on the north side. Mr. Roznovsky said the north bound lane on the south

side has been completed and the right-of-way has been acquired, so this is the north bound side. Rebecca Huss asked if that was not something that is already included in TxDOT right-of-way that is something that they need to contribute. Mr. Roznovsky said that was correct and they have a lot to address between their plans, and since they are completely tearing down and restarting they have to do it all over with the Historic District, platting, everything else that they have not done. Mr. Roznovsky said there is a long way to go and a bunch of steps that they are going to be needing to get approval for, and they will likely be requesting a variance for the setback by the road. Jon Bickford asked if they had any idea when the tearing down of the Exxon Station would start. Mr. Roznovsky said it really depends on when all this gets worked out in the plans and asked what direction Jon Bickford was referring to. Jon Bickford said when Exxon is going to tear down the station and start rebuilding it, because that will be the time when you can take the land to do the south bound lane. Mr. Roznovsky said that was correct, and said he did not think they would do anything until they have plans that have been approved. Mr. Roznovsky said they returned the comments yesterday and requested a meeting be set up and got the information from TxDOT, so he would say it would be a few months before they would see any action especially going through the plat process and approval by the Planning and Zoning Commission because it is in the Historic District. Jon Bickford asked if when they do the turn lane, they will have to close the whole south bound lane to make it, and asked if they had any idea how they will do that. Mr. Roznovsky said TxDOT will determined the timeline and how it will work. Jon Bickford said he was trying to figure out, if they are going to disrupt that area to do the Exxon construction, would there be something the City could do to get FM 149 started, since the disruption is going to be there anyway and get as many disruptions out of the way at the same time as they can. Mr. Roznovsky said in an ideal world, but with TxDOT and everyone else has to coordinate.

- G. Financial Report – Mr. Yates presented the report to City Council. Mr. Yates advised the balances of the following funds: General Fund -\$801,660.97; Utility Fund - \$747,577.00; and the total City Funds at \$6,127,475. Mr. Yates said the report for this month is the September Report, which is the end of the fiscal year. Mr. Yates said while there might be a few minor changes, they can pretty much look at this report to see how they did for the year. Rebecca Huss asked what the status was for the balance of money loaned from the General Fund to the Construction Fund, what is that amount. Mr. Yates said at this point

it around \$270,000. Mr. Yates said for the General Fund Balance of revenue over expenditure for the year was \$104,085, and the balance of the Utility Fund was \$313,808. Rebecca Huss said they ended the year significantly under expectations for sales tax and asked if Mr. Yates could talk about why they deviated from their expectations. Rebecca Huss said it would be \$182,457.15. Mr. Yates said the City had an exceeding low September with \$127,000, which was the lowest September in many years, but they had a very high August. Mr. Yates said rather than a bad projection, the sales tax did not come in as much as he thought it was going to. Rebecca Huss said now that she is looking at the sales tax the report is showing nothing in September, so that could be the problem and these numbers are not the final numbers. Mr. Yates said he sees that also. Rebecca Huss said her other questions would be in the General Fund, Engineering was significantly over budget and asked what the main cause of that would be. Mr. Yates said he will look over the General Ledger and he can advise exactly why. Rebecca Huss said she wanted to check the Utility Fund too because it has some transfers to the Capital Projects that have not come through yet, so that will change the numbers quite significantly on revenues over expenses. Rebecca Huss said maybe for November they could have a full report showing all the transfers and the real numbers, so they can have a better discussion so they know really how they did for the year.

Rebecca Huss moved to accept the Departmental Reports as presented. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

10. Consideration and possible action regarding the rezoning of the eastern portion of a 2.148 – acre tract of land located at 1005 Old Plantersville Road from R-1 single-family to ID – Industrial as requested by Theresa Fisher. (Tabled at the 10/09/18 Meeting)

Mr. Yates advised this item is back on the Agenda because it was tabled at the last meeting. Mr. Yates stated the City Attorney gave an opinion at the last meeting that the property was in fact zoned Industrial. Mayor Countryman said the property was zoned in 2003 as Industrial. Rebecca Huss said if the property is in fact Industrial, what they should have on the Agenda is the new Zoning Map, because it is still not zoned Industrial until they accept a new map. Jon Bickford asked if that was true. Rebecca Huss said the map is the governing document. Mr. Foerster stated the Ordinance is the governing document. Rebecca Huss said the Zoning Map is the final thing otherwise they would not be here. Mr. Foerster said the Zoning Map reflects

the actions of the City Councils' of the last several years, with respect to the zoning action they have taken over the last couple of years. Mr. Foerster stated for Jon Bickford's benefit, because he was not at the last meeting, a few weeks ago Mr. Yates was notified by Jenny Stewart that when she served on the Planning and Zoning Commission in 2003 the property had been zoned Industrial. Mr. Foerster said in the Agenda Pack there is a copy of the April 2003 City Ordinance 2003-07 that did that, unfortunately the Ordinance was lost. Mr. Foerster said Rebecca Huss is correct, they do need to amend the Zoning Map to reflect the Ordinance that was passed in 2003 regarding that property. Mr. Roznovsky said they will update the map now that they know the status of the Ordinance. Jon Bickford said the Zoning Map has to follow the Ordinance. Mr. Foerster said that was correct, the Ordinance does not follow the Zoning Map the Zoning Map follows the Ordinance. Jon Bickford asked about what City Council needed to do. Mr. Foerster said his recommendation when he first presented the information to City Council was that the property was already Industrial so there is no action that needs to be taken other than making the correction to the Official Zoning Map, which can be done at the next meeting.

No action was taken on this item.

11. Consideration and possible action regarding adoption of the following Resolution:
Resolution regarding a Petition by Area Landowners Requesting Expansion of the Extraterritorial Jurisdiction of City of Montgomery, Texas from Bethyl Laboratories regarding fourteen contiguous 637.646 acre tracts of land situated in the BENJAMIN RIGBY SURVEY.

Mr. Yates advised this is a result of about a year and a half of discussions with Mr. Carwile. Mr. Yates said this is an area next to the City; they can request to be annexed into the City's ETJ, which you can do, as well as annexing into the City. Mr. Yates said the reason this has been discussed for so long is because of the interest the City has in cutting off the City of Conroe from circling the City of Montgomery. Mr. Yates said once this area gets annexed into the ETJ, this would extend the ETJ of the City approximately one half of a mile northwest. Mr. Yates said this has nothing to do with water and sewer service or land use.

Rebecca Huss said that cities are allowed to collect hotel and motel tax from any hotels or motels in their ETJ, so that is something that could potentially be affected by adding to the ETJ even if they are not paying City taxes and receiving City services.

Jon Bickford asked if there would be any financial or operational impact to the City if they claimed that as part of the ETJ of the City. Mr. Foerster advised no. Rebecca Huss asked what Bethel Laboratories does. Mr. Yates said it was dealing with biomedicine. Mr. Yates said this is to schedule the Public Hearing; it is not the approval of the process. Mr. Foerster advised that unlike annexation where the statute requires two public hearings and notices, the statute does not speak to the process by which the City accepts a petition to expand its ETJ. Mr. Foerster said he felt it was prudent to at least have one public hearing on the matter before they act on it, so that is his recommendation to City Council.

Rebecca Huss said that would mean that they can't do what is stated in the Agenda Item, because this is consideration and possible action regarding the adoption of the Resolution; what Mr. Foerster is saying is what they need to do is to hold a Public Hearing. Mr. Foerster stated the Resolution calls for a Public Hearing, so what you are doing tonight by Resolution is recognizing and accepting the petition and calling for a Public Hearing. Mr. Foerster said that following the Public Hearing, which may be in December, City Council could take action.

Jon Bickford moved to accept the Petition by Area Landowners Requesting Expansion of the Extraterritorial Jurisdiction of City of Montgomery, Texas from Bethyl Laboratories regarding fourteen contiguous 637.646 acre tracts of land situated in the BENJAMIN RIGBY SURVEY. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

12. Consideration and possible action regarding award and execution of construction contract for Water and Drainage Improvements on Dr. Martin Luther King Jr. Drive and Baja.

Mr. Roznovsky advised this is a CDBG project, which is a federally funded program where the City was awarded a grant. Mr. Roznovsky stated the scope of this project is improving and replacing the water line from FM 149 all the way down Martin Luther King Drive to Baja Road, and including Baja Road, and then doing drainage improvements along the same roadways. Mr. Roznovsky said they will be replacing culverts, upsizing culverts and redoing

the ditches and some slope paving to improve the drainage. Mayor Countryman asked to confirm the project did not include sidewalks, it was just for the roads and ditches. Mr. Roznovsky said it was just the waterline and ditches. Mr. Roznovsky said this area has a FEMA project that is on the heels of this project that will redo the paving on Baja Road. Mr. Roznovsky said the bid prices came in on October 2, 2018 and Boretex, LLC was the low bidder in the amount of \$179,213.50, which was significantly lower than the estimate. Mr. Roznovsky said they called the references, and said they have not worked with the contractor before. Mr. Roznovsky said the contractor has done work in the City of Conroe. Mr. Roznovsky said the contractor is looking to relocate his business to the area, so he is trying to get in and start work here. Mr. Roznovsky said they would recommend going with Boretex, LLC.

Mr. Roznovsky said since the bid came in so low it will leave an additional \$100,000 to be used for more improvements on Baja Road, so he will be meeting with Mr. Yates on Friday to go over the potential Phase II. Mr. Roznovsky said what it looks like is instead of stopping the waterline, they can take it all the way to the City limit and McGinnis as well and upsize that line. Jon Bickford asked if they would need to do that in parallel while they have things dug up. Mr. Roznovsky said it would be at the same time. Jon Bickford asked if there were any concerns that the \$179,000 might turn into something larger than that. Mr. Roznovsky said the contractor was limited to a 25% change order since this is a federally funded project, which would still leave \$50,000.

Mr. Roznovsky said their recommendation would be to award the project to Bortex, LLC. Mr. Roznovsky said the bids are just now coming to City Council because the contractor is required to be registered and approved on the federal contract web site that takes 14 days to complete. Mayor Countryman asked if the contractor would use his own laborers, because she was worried about the whole bridge debacle occurring again. Mr. Roznovsky said he has his own laborers.

Rebecca Huss moved to award the bid on the CDBG Grant Project for MLK Water and Baja Water and Drainage Improvements to Boretex, LLC for the amount of \$179,213.50. T.J. Wilkerson seconded the motion.

Discussion: T.J. Wilkerson asked if there was supposed to have been a development built at the end of Baja. Mr. Roznovsky said yes, and said what had happened was they originally had six lots planned, since then they subdivided it into three, so there is three additional lots on the last acre and a half on Baja. Mr. Roznovsky said there were no public utilities involved. T.J. Wilkerson asked to confirm that they would not have to go back and tear it up. Mr. Roznovsky said that was correct, there is nothing there. Mr. Roznovsky said the water line is already extended to the end so everyone will be able to connect to it. T.J. Wilkerson asked if that was in the back of what Mr. Jacobs was thinking about doing. Mr. Roznovsky said that was correct, so their southern neighbor is the Larry Jacobs property.

The motion carried unanimously. (3-0)

T. J. Wilkerson asked if the contractor would be starting on the project next week. Mr. Roznovsky said the contracts will be sent out and they will start around the end of November.

13. Consideration and possible action regarding the revised final plat for The Shoppes at Montgomery, Section 2.

Mr. Roznovsky said this plat was approved a few months ago, and they have since come back and asked for a revision. Mr. Roznovsky said they were recording the easement on the plat, but the developer changed his mind and said that he wanted to have the easement as a separate instrument so when prospective buyers come to look at the property he has a recorded document showing what exactly is allowed and not allowed in that area. Rebecca Huss asked if it was better to have it as a separate document. Mr. Roznovsky said it has the same effect either way. Mr. Roznovsky said for him it was easier to explain it to potential buyers instead of it being just a zone on a plat. Mr. Roznovsky said the document will show that they are not allowed to put houses, single family, hotels and motels. Rebecca Huss said she thought that hotels could be in that zone. Mr. Roznovsky said hotels are residential, so they can't be in the buffer zone, but they can be on the site.

Rebecca Huss moved to approve the revised final plat for The Shoppes of Montgomery, Section Two as presented. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

Rebecca Huss said if they come back for another revision, we will have to deny them.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE RATES TO BE CHARGED FOR GARBAGE AND TRASH PICKUP SERVICE INSIDE THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR A PENALTY FOR FAILURE TO PAY ACCOUNTS; PROVIDING CONDITIONS UPON WHICH SERVICE WILL BE RESUMED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF NOVEMBER 20, 2018 AFTER PUBLICATION.

Mr. Yates said this was to approve the Ordinance regarding the garbage collection rates going up to \$19.50 per month for one container and \$15.98 for each additional container for residents, and \$20.98 for commercial containers. Mr. Yates said this was really approved several months ago when they approved the contract with Waste Management. Mr. Yates said they held a public forum a week ago and no one attended the 4 p.m. or 6 p.m. meetings. Mr. Yates said there was also a circular with information sent out in the water bills and an article in the Courier regarding this information. Mr. Yates said that he has not heard anything from the public. Mr. Yates said the reason for the November 20th effective date is the expectation of the intention of Waste Management to have the new containers to everyone by November 1, 2018. Mr. Yates said he wanted to make sure that everyone had their container before the new charge.

Jon Bickford asked if they are going to pick up the old containers. Mayor Countryman asked what they do with the old containers and what the difference is. Jon Bickford said the new container is much larger and the size of your garbage can. Mr. Muckleroy advised that Mrs. Terry Woodson with Waste Management advised that whenever they deliver the new cans they will pick up the old container as they come around on their route. Rebecca Huss said they will set their recycling bin out with the recycling materials in it; they will pick up both the container and the materials at the same time. Mr. Muckleroy said that Mrs. Woodson advised she would be mailing all the information out to the residents.

Jon Bickford moved to adopt the Ordinance for the new garbage collection rates of \$19.50 per month for one container, \$15.98 for each additional container for residential customers, and \$20.98 for commercial customers. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING ORDINANCE NO. 2017-24, DATED NOVEMBER 14, 2017, BY ESTABLISHING AND ADOPTING NEW MONTHLY SERVICE RATES AND CHARGES FOR WATER AND SEWER SERVICE FOR CONSUMERS INSIDE AND OUTSIDE THE CITY PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; REPEALING ALL CITY ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF NOVEMBER 20, 2018 AFTER PUBLICATION.

Mr. Yates advised this was to approve the new water rates that increase the water and sewer \$.50 per thousand gallons between 2,000 – 20,000 gallons for inside and outside City customers and increase one dollar per thousand gallons over 20,000 gallons for commercial customers. Mr. Yates said this is the third year of a three-year plan, after the initial rate study three years ago performed by Jones and Carter. Mr. Yates said Mr. Burleigh had reviewed the rate study and provided quite a bit of help with the planning of this. Mr. Yates said the effective date of the Ordinance is November 20, 2018 so that it has the same time period as the garbage and they would not want to make it retroactive. Mr. Yates said the new rates are expected to increase the revenue approximately \$34,000 per year. Mr. Yates said next year the increase should be small if anything at all.

Rebecca Huss said that she wanted to point out that one third of the City residents won't see any increases because they use less than the 2,000 gallons, so all along they recognize that they paid the cost of providing the services so none of the rate increases over the last three years have effected one third of the residential consumers. Jon Bickford asked how much the base fee is. Rebecca Huss said the base fee is \$19.58 for water and \$12.50 for sewer.

Jon Bickford moved to approve the Ordinance for the new water rates and increase the water and sewer \$.50 per thousand gallons between 2,000 – 20,000 gallons for inside and outside City customers and increase one dollar per thousand gallons over 20,000 gallons for commercial customers. T.J. Wilkerson seconded the motion.

Discussion: Rebecca Huss amended her comments to regarding the cost for inside customers for the first 2,000 gallons is \$16.00 for water and \$12.00 for sewer.

The motion carried unanimously. (3-0)

16. Discussion regarding the vacant City Council, Place 5.

Mr. Yates said that with a general law City, which the City of Montgomery is general law, City Council does not have to replace the vacant place on City Council at all. Mr. Yates said City Council can choose to replace the position, stating that there is no timing requirement. Mr. Yates said if City Council wanted to take action on it at the next meeting or in two months they could, up to the point of the next election. Mr. Yates said the law does not require City Council take any particular process. Mr. Yates said in the past they have taken applications for the MEDC and Planning and Zoning, but City Council would not necessarily have to do that. Mayor Countryman asked how someone would throw their hat in the ring. Rebecca Huss said that would be if they decided to take action at all. Mayor Countryman asked if they would send an email to Mr. Yates and say that they would like to be considered. Mr. Yates said they could do that or have them fill out an application, or you could just meet, it would be completely open. Mayor Countryman asked how they would know that someone was interested and who would they contact. Rebecca Huss said she felt they should do the same thing that they have done for the other Boards, which is put it on the web site, if they decide to accept applications as opposed to leaving the position open. Jon Bickford asked if Dave McCorquodale's position will be up for election in May. Mayor Countryman said that is correct. Mr. Yates said that he could write a summary of the duties of the position like he did for MEDC and Planning and Zoning. Rebecca Huss said Mr. Yates could delegate that duty. Mr. Yates said he could and then get that on the web site and in the newspaper. Rebecca Huss said the question is whether they want to leave the position open or have it filled. Jon Bickford said that was something for

consideration. Rebecca Huss asked what everyone thought. Jon Bickford said he was not ready to answer tonight. T.J. Wilkerson said he wanted to wait.

Mr. Yates said there was no action required on this item. Rebecca Huss said they were not ready to discuss it. Jon Bickford said they need to make sure they know what they are talking about, whether or not it is an option on the table and what the implications are so they need to think about it a bit.

17. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky advised they have made a lot of progress. Mr. Roznovsky showed slides from where they were in the beginning with the holes in the road on all sides, the lack thereof pavement and embankment underneath to where they are now. Mr. Roznovsky thanked Mr. Simpson and his son for providing the drone video showing the majority of the slope paving is in, the road has been repaired, and the guardrails are in place. Mr. Roznovsky said the waterline was a separate contract that has substantially been installed and they are making the tie in today and working on testing the line. Mr. Roznovsky said that last piece is just connecting across the bridge and they are just waiting on those parts to come in. Mr. Roznovsky said there is probably one more concrete pour on the sides, which was supposed to have been done today but the weather may have stopped them. Rebecca Huss said it looks like the concrete does not extend and looks like dirt in the bottom, like there is nothing holding the two slope paving's apart. Mr. Roznovsky said it has filled back in and the walls are actually 12 feet high, so they are sitting in the wide base and there is the concrete rip rap in the bottom. Rebecca Huss asked if "filled back in" means it has slumped from the front and back. Mr. Roznovsky said no, that is from was being held back upstream, so between where the improvements stopped and where all the growth is happening there are now contrails that have worked their way during the last couple of rains and filled that back in. Mr. Roznovsky said until they bypassed it, it was going around and now it is filling back in, which they knew was going to happen. Mr. Roznovsky said you can see where the pipes go in on this side of the channel and is still working its way out and not holding water. Mr. Roznovsky said the contractor already put the asphalt down and he was waiting on the waterline contractor to finish his work, and he did potentially damage it, so he was ready to lay it down and then it will be cleaned up and restored. Mr. Roznovsky said right now they are still on schedule for next week and be able to open up the road. Rebecca

Huss said they are only three months behind. Mr. Roznovsky said it was four months behind. Jon Bickford said rain is a powerful thing. Rebecca Huss said so is better wages in another industry.

Mr. Yates said he was torn on how to celebrate this and on one hand he was leaning toward a ribbon cutting and on the other hand he is apologetic about it taking two and a half years to complete. Mayor Countryman said she has been in communication with Mr. Shannon Salsbury and he is moving next week into his new office and he was talking about having a grand opening party and they talked about a bridge party as well. Mayor Countryman said due to the time of year Mr. Salsbury was pushing it back to the first of January and said perhaps they could do that as well. Jon Bickford said they could have an “it’s about time” celebration because everyone is happy that it is done. Mr. Yates said he is going to ask Mr. Muckleroy to get signs about the same size or maybe twice the size of the detour signs and have in the background graphics showing fireworks exploding and saying “the bridge is open.” Rebecca Huss and Mayor Countryman said they should have a parade.

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. (There are no items at this time.)

COUNCIL INQUIRY:

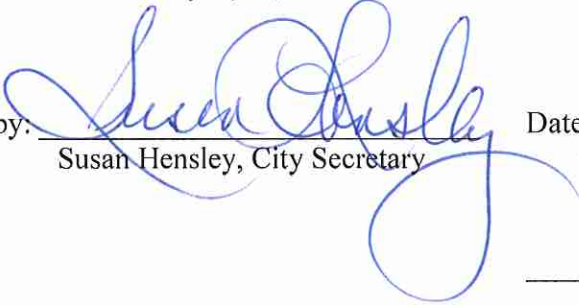
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

Rebecca Huss said she has been very disappointed to not see for two meetings, which is an entire month, any progress on the animal ordinance. Rebecca Huss commented that City Council said they were choosing between “A” and “B”, which is the more intensive animal ordinance with regard to more animals covered and more aspects of animal welfare. Rebecca Huss said she thought they were

ready to go on that and there is no reason for them to delay it an entire month, let alone looking at an entire quarter. Mr. Yates said that what City Council had directed him to do was write a letter to everyone and put it in the water bills. Rebecca Huss said she has been here every meeting and she did not think City Council said that; they said they wanted it to go to the Planning and Zoning Commission. Mr. Yates said he was not able to do that last month because of the timing of the water bill and the second meeting of the month. Mr. Yates said the letter will be in this month's water bill and will be on the November 13, 2018 City Council Agenda.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:50 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

Submitted by:  Date Approved: _____
Susan Hensley, City Secretary

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request, Map with request, Area map from Staff
Date Prepared: November 7, 2018	

Subject

This is to consider calling a public hearing for this property. The proposed date of the public hearing is January ~~11~~ 2019.

Description

This is to consider calling a public hearing to consider a request from Michael and Judith Kammerer to rezone a 7.710 acre tract of land currently zoned industrial.

Recommendation

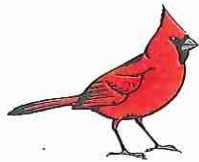
Motion to approve the calling of a public hearing regarding a rezoning of a 7.710 acre parcel of property located at trace 23-A and 24-A from ID-industrial to R-1 Single-family for 6:00 p.m., January ~~11~~ 2019 at 101 Old Plantersville Rd. in Montgomery Texas

Approved By

City Administrator

Jack Yates

Date: November 7, 2018



Red Bird Meadows Ranch

Mike and Judy Kammerer
11900 Womack Cemetery Road
Montgomery, Texas 77316

October 24, 2018

Michael J. & Judith L. Kammerer
11900 Womack Cemetery Rd.
Montgomery, TX 77316

City of Montgomery
101 Old Plantersville R.
Montgomery, TX 77316

Attn: Mr. Jack Yates – City Adm.

RE: Request for zoning revision

Dear Mayor Countryman and Council,

We, Michael J & Judith L. Kammerer, are owners of a 404 +/- acre tract in the Landrum Zacharias Survey, A-0022, tracts 23-A and 24-A on the 2017 Montgomery County property tax statement. We wish to engage and hereby authorize our real estate agent, Webb K. Melder, to act on our behalf regarding our request to change the current zoning designation for 7.710 acres of the aforementioned 404 +/- acre tract, located at the southwest corner of Old Plantersville Rd. and Womack Cemetery Rd, (see plat exhibit) and designated as tract 24-A. Our request is for all of the land located inside the Montgomery City limits as shown on the plat exhibit and that is part of our ranch, to be revised to residential.

It is currently zoned industrial. With homes across the street and in the surrounding area, together with a residential development forecast for the future, we respectfully request the change in zoning classification from industrial to residential.

Enclosed is my check for \$500.00 for the city's zoning revision process and landowner's request fee. Thank you for your consideration.

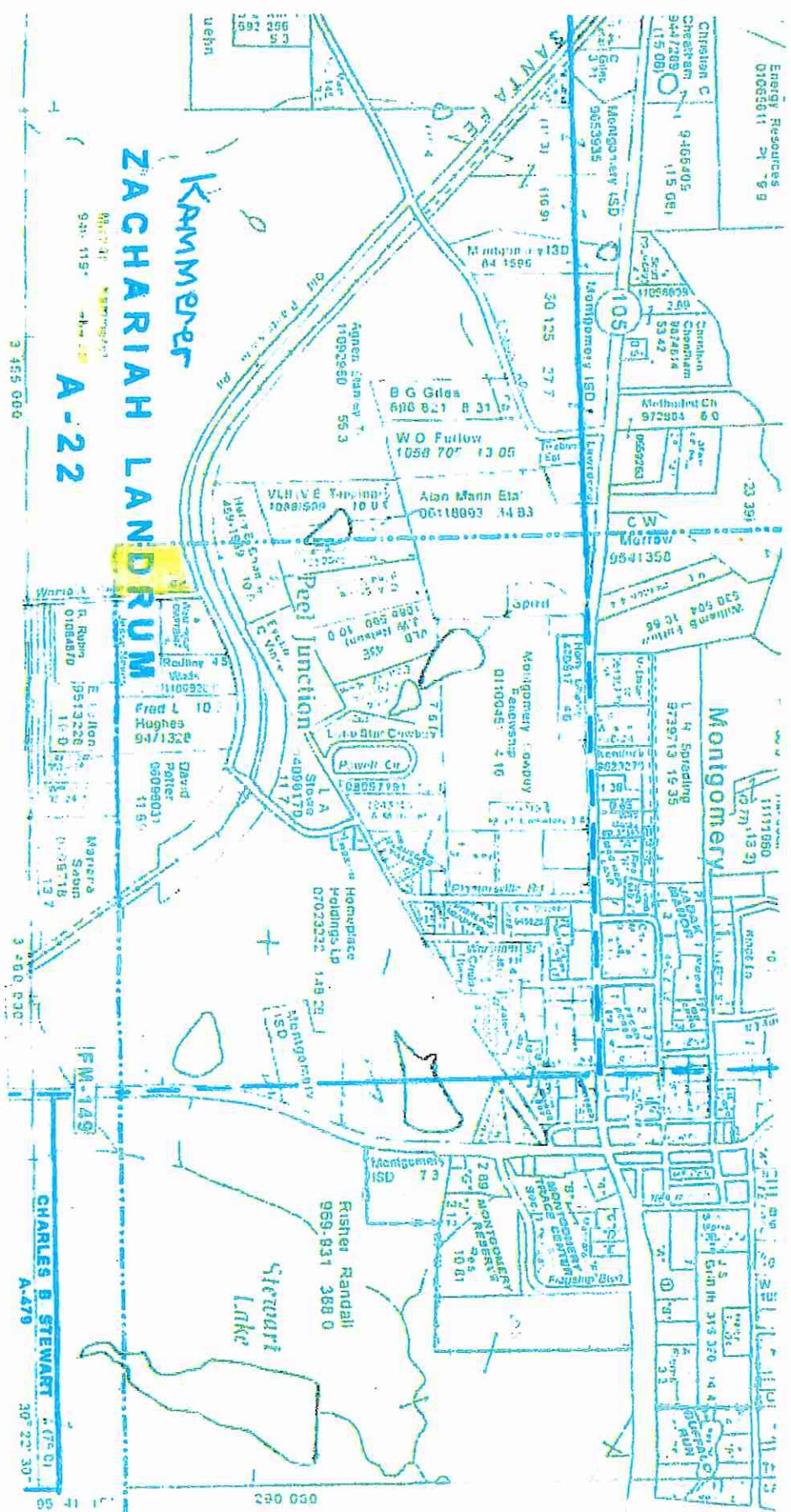
Respectfully,

Michael J. & Judith L. Kammerer

Cc: Webb K. Melder – agent
713-824-8764

PLAT EXHIBIT

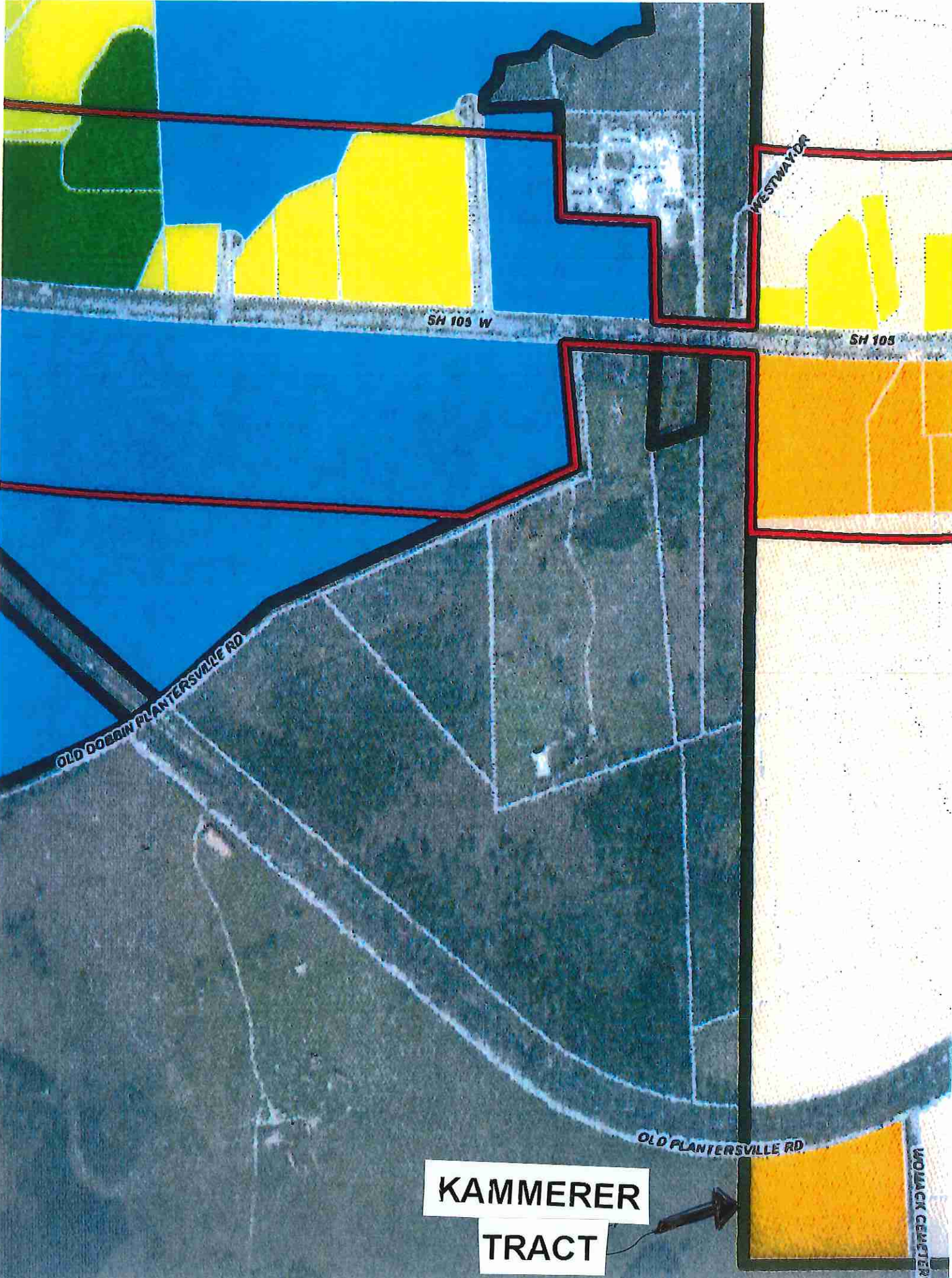
7.710 +/- Acres inside the city limits



1	4
2	5
3	5

3 IN. STYLAVERDE SUITES H. USTON TX 75083
 SCALE 1" = 600'
 3 455 000

MONTGOMERY COUNTY
 MAP OF
 MONTGOMERY COUNTY
 REVISION BY GEORGE MASON MAPS, INC.
 REVISION DATE 11/2017



KAMMERER
TRACT

OLD DOBBIN PLANTERSVILLE RD

SH 105 W

SH 105

WESTWARD

OLD PLANTERSVILLE RD

WOLACK CEMETERY

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request, Map with request,
Date Prepared: November 7, 2018	

Subject

This is to consider calling a public hearing for this property. The proposed date of the public hearing is January 22, 2019.

Description

This is to consider calling a public hearing to consider a request from James Ward to rezone a 2.187 acre tract and an adjoining 0.475 acre tract of land located at 1062 Clepper St. currently zoned R-1 single – family to B – commercial.

Recommendation

Motion to approve the calling of a public hearing regarding a rezoning of property located at a 2.187 acre tract and an adjoining 0.475 acre tract of land located at 1062 Clepper St. currently zoned R-1 single – family to B – commercial. for 6:00 p.m., January 22, 2019 at 101 Old Plantersville Rd. in Montgomery Texas

Approved By

City Administrator	Jack Yates	Date: November 7, 2018
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**JIM'S HARDWARE, INC.
14460 LIBERTY ST.
MONTGOMERY, TEXAS 77356
936-597-8922**

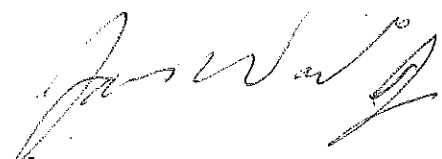
**City of Montgomery
Jack Yates
Montgomery, Texas 77356
August 31, 2018**

Dear Mr. Yates,

I am the owner of the attached described property. I request that the 2.187 acres of land and the 0.475 acres of land located at 1062 Clepper Street be re-zoned from R-1 Residential to B-Commercial.

Please let me know when the next Planning and Zoning meeting might be so I can discuss this property with them. If you have any other questions, please feel free to contact me.

Sincerely,


James (Jim) Ward, Jr.

Owner

281-703-1628 OR 936-276-8000

Attached:

Check

Surveys and maps



November 23, 2015

BEING 2.187 ACRES OF LAND IN THE JOHN CORNER SURVEY, A-8, MONTGOMERY COUNTY, TEXAS, SAID 2.187 ACRES BEING OUT OF THE N.D. BRANCH 2.72 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED IN VOLUME 226, PAGE 318 MONTGOMERY COUNTY DEED RECORDS, SAID 2.187 ACRES BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING at a 5/8" iron rod found for the Southeast corner of Restricted Reserve "A", Ward Investment Section 1, a subdivision map recorded in Cabinet Z, Sheet 606 of the Montgomery County Map Records, the Southwest corner of the said 2.72 acre tract, in the North line of Clepper Street, (60' Vol. 10, Pg. 56, M.C.D.R.) and being the Southwest corner of the herein described tract of land;

THENCE N. 00° 57' 09" E., along the East line of said Reserve A, the West line of the 2.72 acre tract for a distance of 541.11 feet, (2.72 acre call 552.95 feet) to a 5/8" iron rod found for the Northeast corner of Reserve " A ", in the South line of Lot 12, Block 5 of Buffalo Springs, Section 1, Amending Plat, a subdivision map recorded in Cabinet Z, Sheet 94 of the Montgomery County Map Records, for the Northwest corner of the 2.72 acre tract, the Northwest corner of the herein described tract of land;

THENCE N. 85° 44' 52" E., along the South line of Lot 12, the North line of the 2.72 acre tract for a distance of 229.12 feet, (call 236.11 feet) to an 8" Cedar Fence Corner found for the Southeast corner of Lot 12, the Northeast corner of the 2.72 acre tract, in the West line of Betty Ann Cluxton 7.2 acre tract of land deed of which is recorded under County Clerk File Number 8005417 of the Montgomery County Real Property Records, being the Northeast corner of the herein described tract of land;

THENCE S. 00° 00' 01" E., along Cluxton's West line, the East line of the 2.72 acre tract for a distance of 298.60 feet to a Railroad Tie for an angle point;

THENCE S. 00° 08' 15" W., continuing along said line for a distance of 51.40 feet to a 1/2 iron rod set with cap (Jeff Moon RPLS 4639) for the Northeast corner of the Robert G. Berkley 0.38 acre tract of land deed of which is recorded under County Clerk File Number 2008-032938 of the Montgomery County Real Property Records;

THENCE N. 89° 56' 08" W., along Berkley's North line for a distance of 59.30 feet to a 1/2 iron rod set with cap (Jeff Moon RPLS 4639) to the Berkley's Northwest corner, in the East line of the Norman D. Branch 0.47 acre tract of land deed of which is recorded in Volume 352, Page 526, Montgomery County Deed Records;

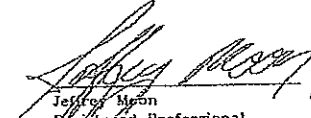
THENCE N. 00° 06' 56" E., along the above mentioned East line for a distance of 64.57 feet to a 1/2 iron rod set with cap (Jeff Moon RPLS 4639) for the Northeast corner of the 0.47 acre tract;

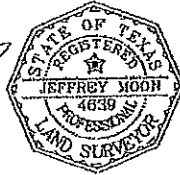
THENCE N. 89° 56' 08" W., along the North line of the 0.47 acre tract for a distance of 75.00 feet to a ½ iron rod set with cap (Jeff Moon RPLS 4639) for it's Northwest corner;

THENCE S. 00° 03' 52" W., along the West line of the 0.47 acre tract for a distance of 275.00 feet to a ½ iron rod set with cap (Jeff Moon RPLS 4639) for it's Southwest corner, in the North line of Clepper Street for the Southeast corner of the herein described tract;

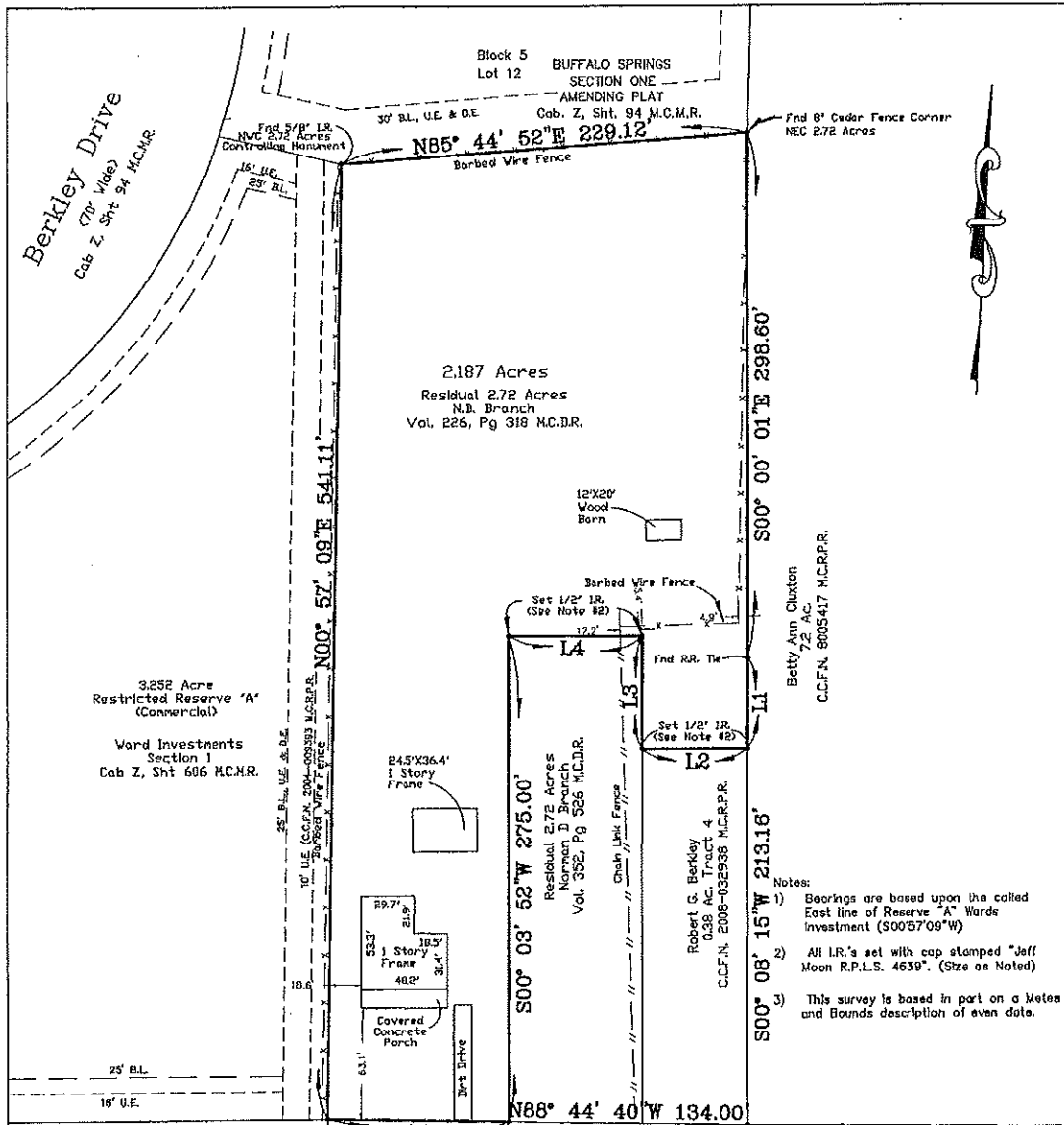
THENCE N. 88° 44' 40" W., along the North line of Clepper Street for a distance of 102.91 feet to the POINT OF BEGINNING in all containing in all 2.187 acres of land.

This description is based upon a Land Survey and drawing as prepared by Jeffrey Moon and Associates, Inc; dated November 23, 2105. Bearings are based upon the East line of Ward Investments per plat.


Jeffrey Moon
Registered Professional
Land Surveyor No. 4639



2.187 Ac M&B



3.252 Acre
Restricted Reserve "A"
(Commercial)
Ward Investments
Section 1
Cab Z, Sht 606 M.C.D.R.

2.187 Acres
Residual 2.72 Acres
N.D. Branch
Vol. 226, Pg 318 M.C.D.R.

Residual 2.72 Acres
N.D. Branch
Vol. 352, Pg 566 M.C.D.R.

Robert C. Berkley
2008-03-04
C.C.F.N. 2008-03-038 M.C.R.P.R.

Betty Ann Cluxton
72 AC.
C.C.F.N. 8005417 M.C.R.P.R.

- Notes:
- 1) Bearings are based upon the called East line of Reserve "A" Wards Investment (S00°57'09"W)
 - 2) All I.R.'s set with cap stamped "Jeff Moon R.P.L.S. 4639". (Size as Noted)
 - 3) This survey is based in part on a Meter and Bounds description of even data.

Clepper Street
(60' Wide)
Vol 10, Pg 56 M.C.D.R.

LAND SURVEY
2.187 ACRES
OF LAND IN THE
JOHN CORNER SURVEY, A-8

MONTGOMERY COUNTY, TEXAS REF: _____ MAP RECORDS
Scale: 1" = 80' Date: November 23, 2015
Address: _____

Line Table		
Line #	Bearing	Distance
L1	S00° 08' 15"W	51.40
L2	N89° 56' 08"W	59.30
L3	N00° 06' 56"E	64.57
L4	N89° 56' 08"W	75.00
L5	N88° 44' 40"W	102.91

To James Ward Jr. Exclusively,
I hereby state that this drawing is a true representation of a ground survey made under my direct supervision.
All rights reserved Copyright 2016 Jeffrey Moon & Assoc., Inc.

Jeffrey Moon
Jeffrey Moon
Registered Professional
Land Surveyor No. 4639



GF# 2020935-H043 File # 15-B-50 Book LL, Pg. _____
JEFFREY MOON & ASSOC., INC., P.O. Box 2601, Conroe, TX. 77305
T.B.P.L.S. Firm No. 10112200 (936) 756-5286 Fax (936) 756-5281

** [Signature]*

James Ward



July 6, 2016

BEING 0.475 ACRES OF LAND IN THE JOHN CORNER SURVEY, A-8, MONTGOMERY COUNTY, TEXAS, SAID 0.475 ACRE BEING THE RESIDUAL OF THE NORMAN D. BRANCH 2.72 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED IN VOLUME 352, PAGE 526, MONTGOMERY COUNTY DEED RECORDS, SAID 0.475 ACRE BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING at a ½" iron rod set in the North line of Clepper Street, (60' Vol. 10, Pg. 56, M.C.D.R.) for the Southwest corner of the Robert G. Berkley 0.38 acre tract of land deed of which is recorded under County Clerk's File Number 2008-032938, Montgomery County Real Property Records and being the Southeast corner of the herein described tract;

THENCE N. 88° 44' 40" W., along the North line of Clepper Street for a distance of 75.00 feet to a ½" iron rod found with a cap stamped " Jeff Moon RPLS 4639 " for the Southeast corner of the James Ward, Jr; 2.187 acre tract of land deed of which is recorded under County Clerk's File Number 2016-001138, Montgomery County Real Property Records, same being the Southwest corner of the herein described tract;

THENCE N. 00° 03' 52" E., leaving the North line of Clepper Street, along an inside line of Ward for a distance of 275.00 feet to a ½" iron rod found with a cap stamped " Jeff Moon RPLS 4639 " for an inside corner of Ward, the Northwest corner of the herein described tract;

THENCE S. 89° 56' 08" E., along a line of Ward for a distance of 75.00 feet to a ½" iron rod found with a cap stamped " Jeff Moon RPLS 4639 " for a corner of Ward, the Northeast corner of the herein described tract;

THENCE S. 00° 06' 56" W., along an inside line of Ward for a distance of 64.57 feet to a ½" iron rod set with a cap stamped " Jeff Moon RPLS 4639 " for a corner of Ward, the Berkley's Northwest corner;

THENCE S. 00° 03' 11" W., along Berkley's West line for a distance of 211.99 feet to the POINT OF BEGINNING and containing in all 0.475 acre of land.

This description is based upon a Land Survey and drawing as prepared by Jeffrey Moon and Associates, Inc., dated July 6, 2016. Bearings are based upon the deed call lower east line of the 2.187 acre tract of land, S. 00° 03' 52" W.

Berkley Drive
 (70' Wide)
 Cab. Z, Sht. 94 M.C.M.R.

Block 5
 Lot 12
 BUFFALO SPRINGS
 SECTION ONE
 AMENDING PLAT
 Cab. Z, Sht. 94 M.C.M.R.

30' B.L. U.E. & D.E.

Barbed Wire Fence

2.187 Acres
 James Ward, Jr.
 & Tammy L. Ward
 C.C.F.N. 2016-001138 M.C.R.P.R.

3.252 Acre
 Restricted Reserve 'A'
 (Commercial)

Ward Investments
 Section 1
 Cab. Z, Sht. 605 M.C.M.R.

25' B.L. U.E. & D.E.
 10' U.E. (C.C.F.N. 2004-00183 M.C.R.P.R.)
 Barbed Wire Fence

End 1/2" IR. w/cap
 (Jeff Moon R.P.L.S. 4639)

End 1/2" IR. w/cap
 (Jeff Moon R.P.L.S. 4639)

Betty Ann Cluxton
 72 AC.
 C.C.F.N. 8005417 M.C.R.P.R.

N 00°03'52" E 275.00'

0.475 Acre

S 00°03'11" W 211.99'

Robert G. Berkley
 0.38 AC. Tract 4
 C.C.F.N. 2008-032938 M.C.R.P.R.

Notes:

- 1) Bearings are based upon the deed call lower East line of the 2.187 acre tract (500°03'52"W)
- 2) All I.R.'s set with cap stamped "Jeff Moon R.P.L.S. 4639". (Size as Noted)
- 3) This survey is based in part on a Metes and Bounds description of even date.

End 5/8" IR.
 SVC 72 Acres
 Controlling Monument

End 5/8" IR.
 SVC 2.187 Acres
 Controlling Monument

102.91
 End 1/2" IR. w/cap
 (Jeff Moon R.P.L.S. 4639)

59.00
 Set 1/2" IR.
 (See Note 4)

Clepper Street
 (60' Wide)
 Vol 10, Pg 56 M.C.D.R.

N 88°44'40" W
 75.00'

LAND SURVEY
 0.475 ACRE
 OF LAND IN THE
 JOHN CORNER SURVEY, A-8



Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Memo from City Engineer, Zoning Map
Date Prepared: November 8, 2018	

Subject

This is to adopt an updated zoning map as provided by the City Engineer and based on ordinances passed.

Description

This was necessitated by the finding of ordinance 2003 – 07 regarding the Fisher property on Old Plantersville Road.

Recommendation

Motion to approve zoning map as presented.

Approved By

City Administrator

Jack Yates

Date: November 8, 2018



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

November 7, 2018

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77316

Re: Proposed Approval of Zoning Map Corrections
The City of Montgomery

Dear Mayor and Council:

It recently came to our attention that the City's official zoning map does not correctly reflect all previously approved ordinances. The properties to be corrected include the previously reviewed property at 1005 Old Plantersville Road, which was found to be zoned ID-Industrial in its entirety per Ordinance No. 2003-07. Additionally, a property located on Caroline Street was changed from R-1-Residential to B-Commercial in error during the most recent zoning map updates. Both properties are identified on the enclosed proposed zoning map.

Based on information provided by the City Attorney, it is our understanding that public hearings are not required before approving the corrected zoning map, as the hearings were held for each individual rezoning or initial zoning at the time of the ordinance. Therefore, we request the City Council adopt the revised map as an amendment to the official City zoning map. Upon approval, we will also update your GIS system to reflect all zoning ordinances correctly.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR/kmv

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Zoning Map Amendment Approval 11-2018.doc

Enc: Proposed Zoning Map

Cc (via email): The Planning and Zoning Commission, City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney



VICINITY MAP

Scale: 1 inch equals 20 miles

LEGEND

- Overlay Zone
- Corridor Enhancement (CE)
- Historical Landmark (HL)
- Historic Preservation District (HD)
- Base Layers
- City Limits
- City of Canoe ETJ
- City ETJ
- MCAD Parcels
- Zone Classification
 - Commercial (C)
 - Industrial (I)
 - Institutional (II)
 - Multi-Family (M)
 - Planned Development (PD)
 - Residential (R)

LAST AMENDED 09 OCTOBER 2018
VIA ORDINANCE NO. 2018-20
HGAC Aerial Imagery (Nov 2018)

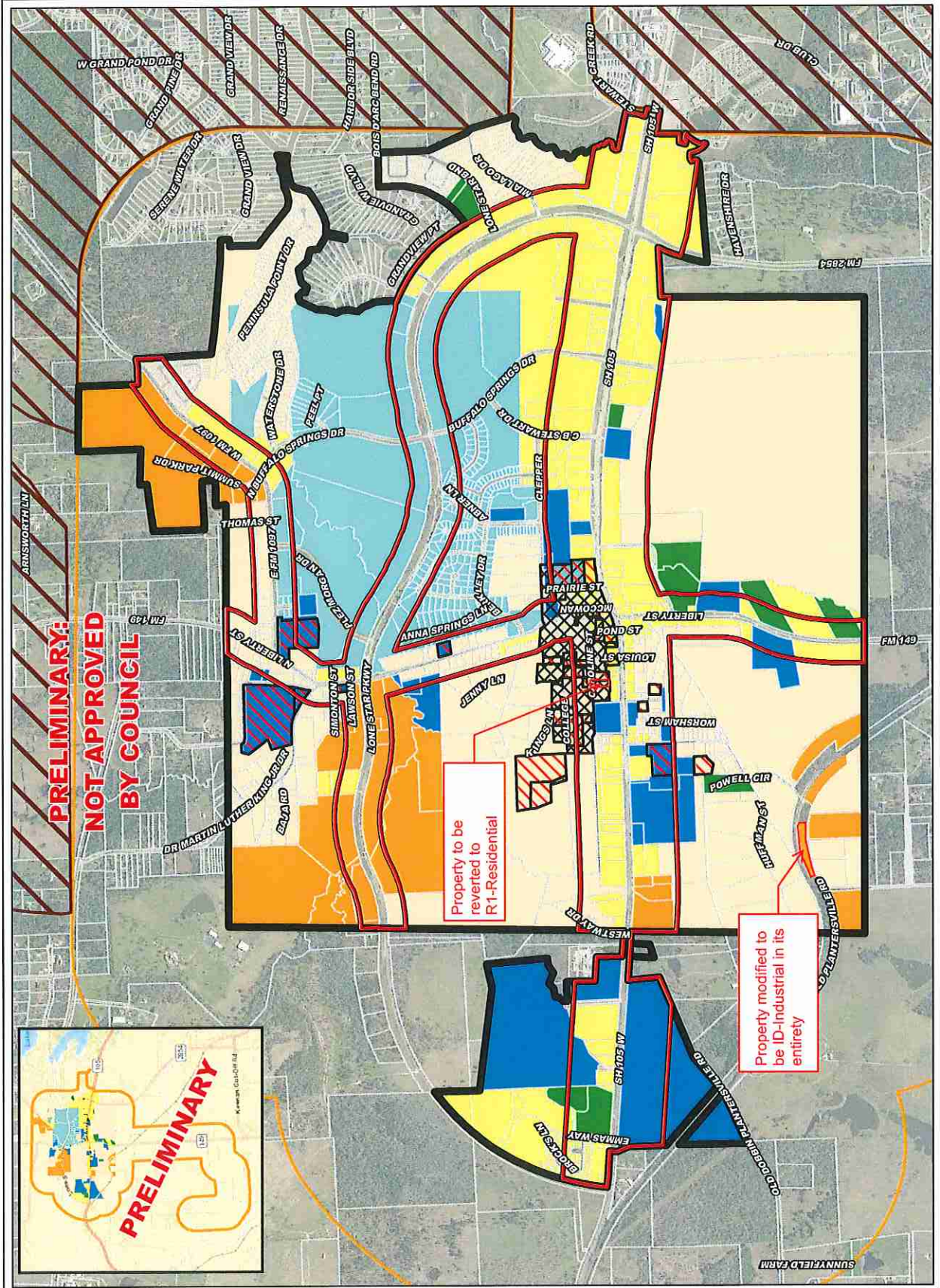
PRELIMINARY ZONING LAYOUT (NOVEMBER 2018)

CITY OF MONTGOMERY
MONTGOMERY COUNTY, TEXAS

1 inch equals 1,500 feet

Disclaimer: This product is intended for informational purposes and does not constitute a warranty of any kind. It is based on the best available information and represents only the approximate relative location of the subject property. It does not represent an intended or actual zoning boundary. This project is subject to final review and approval by the City Council. The project is subject to final review and approval by the City Council. The project is subject to final review and approval by the City Council.

JONES CARTER
Best Work of Professional Engineers Registration No. 1-1719



**PRELIMINARY:
NOT APPROVED
BY COUNCIL**

Property to be
reverted to
R1-Residential

Property modified to
be ID-Industrial in its
entirety



Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Escrow Agreement
Date Prepared: November 5, 2018	

Subject

This is the escrow agreement for renovation of the church owned by the Living Savior Lutheran Church.

Description

This is to approve the standard escrow agreement, the developer as submitted payment in the amount of the escrow requested.

Recommendation

Motion to approve the escrow agreement between the City and Living Savior Lutheran Church as part of the consent item agenda

Approved By

City Administrator	Jack Yates	Date: November 5, 2018
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ESCROW AGREEMENT

BY AND BETWEEN

THE CITY OF MONTGOMERY, TEXAS,

AND

Living Savior Lutheran Church

Dev. No. 1813

THE STATE OF TEXAS ⊃

COUNTY OF MONTGOMERY ⊃

This Escrow Agreement, is made and entered into as of the 18 day OCTOBER, 2018 by and between the CITY OF MONTGOMERY, TEXAS, a body politic, and a municipal corporation created and operating under the general laws of the State of Texas (hereinafter called the "City"), and Living Savior Lutheran Church, (hereinafter called the "Developer").

RECITALS

WHEREAS, the Developer desires to acquire and develop all or part of a ^{2.0445}~~2.03~~-acre tract, being part of and out of the John Corner Survey, Abstract No. 8, sometimes referred to as the Living Savior Lutheran Church Tract, and being more particularly described in Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

WHEREAS, the City policy requires the Developer to establish an Escrow Fund with the City to reimburse the City for engineering costs, legal fees, consulting fees and administrative expenses incurred for plan reviews, developer coordination, construction management, inspection services to be provided for during the construction phase, and one-year warranty services.

AGREEMENT

ARTICLE I

SERVICES REQUIRED

Section 1.01 The development of the Living Savior Lutheran Church Tract will require the City to utilize its own personnel, its professionals and consultants; and the Escrow Fund will be used to reimburse the City its costs associated with these services.

Section 1.02 In the event other contract services are required related to the development from third parties, payment for such services will be made by the City and reimbursed by the Developer or paid directly by the Developer as the parties may agree.

ARTICLE II

FINANCING AND SERVICES

Section 2.01 All estimated costs and professional fees needed by City shall be financed by Developer. Developer agrees to advance funds to City for the purpose of funding such costs as herein set out:

Administrative	\$1,000
City Engineer	\$4,000
Legal	\$1,000
<hr/>	
TOTAL	\$6,000

Section 2.02 Developer agrees to submit payment of the Escrow Fund no later than ten (10) days after the execution of this Escrow Agreement. No work will begin by or on behalf of the City until funds have been received.

Section 2.03 The total amount shown above for the Escrow Fund is intended to be a "Not

to Exceed” amount unless extenuating, unexpected fees are needed. Examples of extenuating circumstances created by the developer that may cause additional fees include, but are not limited to, greater than three plan reviews or drainage analysis reviews; revisions to approved plans; extraordinary number of comments on plans; additional meetings at the request of the developer; variance requests; encroachment agreement requests; construction delays and/or issues; failure to coordinate construction with City; failed testing during construction; failing to address punch list items; and/or excessive warranty repair items. If extenuating circumstances arise, the Developer will be informed, in writing by the City, of the additional deposit amount and explanation of extenuating circumstance. The Developer agrees to tender additional sums within 10 days of receipt of request to cover such costs and expenses. If additional funds are not deposited within 10 days all work by or on behalf of the City will stop until funds are deposited. Any funds which may remain after the completion of the development described in this Escrow Agreement will be refunded to Developer.

ARTICLE III,

MISCELLANEOUS

Section 3.01 City reserves the right to enter into additional contracts with other persons, corporations, or political subdivisions of the State of Texas; provided, however, that City covenants and agrees that it will not so contract with others to an extent as to impair City's ability to perform fully and punctually its obligations under this Escrow Agreement.

Section 3.02 If either party is rendered unable, wholly or in part, by *force majeure* to carry out any of its obligations under this Escrow Agreement, then the obligations of such party, to the extent affected by such *force majeure* and to the extent that due diligence is being used to

resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the *force majeure* relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such *force majeure* relied upon to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "*force majeure*," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage, or accidents to machinery, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care.

Section 3.03 This Escrow Agreement is subject to all rules, regulations and laws which may be applicable by the United States, the State of Texas or any regulatory agency having jurisdiction.

Section 3.04 No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 3.05 Any notice, communication, request, reply or advice (hereafter referred to as "notice") herein provided or permitted to be given, made, or accepted by either party to the other

(except bills) must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Escrow Agreement, from and after the expiration of seven (7) days after it is so deposited. Notice given in any other manner shall be effective only when received by the party to be notified. For the purpose of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to City, to:	City Administrator City of Montgomery 101 Old Plantersville Rd. Montgomery, Texas 77356
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If to Developer, to:	Peter Hames 309 Pond Street Montgomery, Texas 77356
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The parties shall have the right from time to time and at any time to change their respective addresses, and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other party.

Section 3.06 This Escrow Agreement shall be subject to change or modification only in writing and with the mutual consent of the governing body of City and the management of Developer.

Section 3.07 This Escrow Agreement shall bind and benefit City and its legal successors and Developer and its legal successors but shall not otherwise be assignable, in whole or in part, by either party except as specifically provided herein between the parties or by supplemental

agreement.

Section 3.08 This Escrow Agreement shall be for the sole and exclusive benefit of City and Developer and is not for the benefit of any third party. Nothing herein shall be construed to confer standing to sue upon any party who did not otherwise have such standing.

Section 3.09 The provisions of this Escrow Agreement are severable, and if any provision or part of this Escrow Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Escrow Agreement and the application of such provision or part of this Escrow Agreement to other person circumstances shall not be affected thereby.

Section 3.10 This Escrow Agreement and any amendments thereto, constitute all the agreements between the parties relative to the subject matter thereof, and may be executed in multiple counterparts, each of which when so executed shall be deemed to be an original.

Section 3.11 This Agreement shall be governed by, construed and enforced in accordance with, and subject to, the laws of the State of Texas without regard to the principles of conflict of laws. This Agreement is performable in Montgomery County, Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement in three (3) copies, each of which shall be deemed to be an original, as of the date and year first written in this Escrow Agreement.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

Living Savior Lutheran Church
Developer

By: *Peter H. Hamus*
Signature

Title: PRESIDENT

STATE OF TEXAS {

COUNTY OF MONTGOMERY {

BEFORE ME, the undersigned authority, on this day personally appeared Sara Countryman, Mayor of the City of Montgomery, Texas, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2018.

Notary Public, State of Texas

THE STATE OF TEXAS {

COUNTY OF _____ {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____, _____ of _____, a _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated and as the act and deed of said organization.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2018.

Notary Public, State of Texas

Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between Living Savior Lutheran Church and Gessit Construction entered into this the _____ day of _____, 2018.

1. Gessit Construction, in conjunction with the execution of the above referenced contract and in accordance with Chapter 2270 of the Texas Government Code, effective September 1, 2017, does hereby agree, confirm, and verify that it:
 - A. Does not Boycott Israel; and
 - B. Will not Boycott Israel during the term of the contract.

"Boycott Israel" has the meaning given to it in Chapter 808 of Subtitle A, Title 8 of the Texas Government Code. As of the effective date of the statute, the term means "refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes."

2. Contractor hereby acknowledges and agrees that this verification is a material term of the contract and Owner is expressly relying on this verification in agreeing to enter into the contract with Contractor.
3. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM ALL CLAIMS, CAUSES OF ACTION, LEGAL PROCEEDINGS, DAMAGES, COSTS, FEES AND EXPENSES ARISING OUT OF OR RELATED TO AN ACTUAL OR ALLEGED MISREPRESENTATION BY CONTRACTOR PROVIDED HEREUNDER.**

[Signatures on Following Page]

Prohibition on Boycotting Israel Verification [Continued]

GERRIT CONSTRUCTION.
Contractor

State of Texas
County of MONTGOMERY

Before me, a notary public, on this day personally appeared PETER HAMES, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained in Paragraph 1A and B are true and correct.

(Personalized Seal)



Susan Hensley
Notary Public's Signature

Receipt and incorporation into the above referenced contract hereby agreed to and acknowledged by:

Peter H. Hames
Owner
PRESIDENT 10/18/16

**VENDOR CONTRACTS APPROVED BY CITY COUNCIL
AND/OR IN EXCESS OF ONE MILLION DOLLARS**

Effective January 1, 2016 there is now a requirement for Certificates of Interested Persons (Form 1295) to be filed with the city secretaries and they in turn electronically file notice with the Texas Ethics Commission (TEC).

The TEC website is <https://www.ethics.state.tx.us/tec/1295-Info.htm>

Summary of new law:

1. All contracts that must be approved by the city council must be given a contract tracking number.
2. Vendors or business entities (but not other governmental entities) must be given the Form 1295 and directed to fill it out.
3. The Form 1295 must be signed by an authorized person from the business entity.
4. The Form 1295 must be submitted to the city secretary.
5. The city secretary must in turn electronically file the notice of the Form 1295 to the Texas Ethics Commission at its website:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
6. The city secretary must electronically file all such forms within 30 days of the contract approval.
7. Form 1295 will be executed by the Vendor and filed with the City Secretary prior to the Contract being executed.

Vendor Training and Registration

Form 1295:

Step One - Set up Account

For a video detailing how you register your company for the first time with the Texas Ethics Commission go to:

<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/FirstLogin-Business/Form1295Login-Business.html>

Step Two - Create Certificate Form 1295

For a video detailing how to create a Form 1295, following registration go to:

<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/CreateCertificate/CreateCertificate.html>

To complete your Form 1295 you will need to obtain a Contract Tracking Number from the City of Montgomery City Secretary at (936) 597-3288 or via email at shensley@ci.montgomery.tx.us.

You will print out your completed Certificate – Form 1295 and have it signed. The Form 1295 will then be submitted to the City of Montgomery City Secretary for acknowledgment of the Certificate.

Exhibit "A" Attachment

TRACT 1

BEING a 0.61 acre tract of land in the John Corner Survey, Abstract 8 in Montgomery County, and being the same called 0.602 acre tract of land as recorded under Montgomery County Clerk's File No. 2007-090680 of the Real Property Records of Montgomery County, Texas. Said 0.61 acre tract being more particularly described as follows:

BEGINNING at a found ½" iron rod being the northwesterly corner of the said 0.602 acre tract, also being the southwestery corner of the Montgomery Historical Society tract as recorded in Montgomery County Clerk's File No. 8410942 of the Deed Records of Montgomery County Texas, and being the northwesterly corner of the herein described tract;

THENCE S 89 deg. 33' 37" E along the northerly line of the said 0.602 acre tract, a distance of 156.94 feet (passing at 143.94 a ½" iron rod) to a point in the westerly line of Pond Street, being the northeasterly corner of the herein described tract;

THENCE S 00 deg. 51' 52" W, along the westerly line of Pond Street, a distance of 169.88 feet to a point being the southeasterly corner of the herein described tract;

THENCE N 89 deg. 13' 52" W, along the southerly line of the said 0.602 acre tract, a distance of 155.43 feet (passing at 13.0 feet a ½" iron rod) to an X found in concrete for the southwestery corner of the herein described tract;

THENCE N 00 deg 21' 19" E, a distance of 168.99 feet to the **POINT OF BEGINNING**, and containing 0.61 acres of land, more or less.

TRACT 2

BEING a 1.08 acre tract of land in the John Corner Survey, Abstract 8 in Montgomery County, and being the same called 1.076 acre tract of land as recorded under Montgomery County Clerk's File No. 2007-090680 of the Real Property Records of Montgomery County, Texas. Said 1.08 acre tract being more particularly described as follows:

BEGINNING at a found ½" iron rod being the northwesterly corner of the said 1.076 acre tract, being in the southerly Right of Way of Caroline Street and the easterly Right of Way of Louisa Street, and being the northwesterly corner of the herein described tract;

THENCE S 89 deg. 49' 36" E along the northerly line of the said 1.076 acre tract, a distance of 207.18 to a found ½" iron rod in the westerly line of Cemetery Street, being the northeasterly corner of the herein described tract;

THENCE S 00 deg. 44' 42" W, along the westerly line of Cemetery Street, a distance of 208.83 feet to a set 5/8" iron rod being a southeasterly corner of the herein described tract;

THENCE S 66 deg. 12' 00" W, along the westerly line of Cemetery Street, a distance of 46.00 feet to a set 5/8" iron rod being a southeasterly corner of the herein described tract;

THENCE N 89 deg. 24' 00" W, along the northerly line of Cemetery Street, a distance of 168.70 feet to a found 1/2" iron rod in the easterly line of Louisa Street, being the southwestly corner of the herein described tract;

THENCE N 01 deg 36' 00" E, a distance of 226.32 feet to the **POINT OF BEGINNING**, and containing 1.08 acres of land, more or less.

EXHIBIT A

METES AND BOUNDS DESCRIPTION

The Proposed Abandonment part of Cemetery Street from Church Street to Caroline Street

Of 0.291 Acres or 12,685 Square Feet of land being the proposed abandonment of part of Cemetery Street between Church Street and Caroline Street, lying in the JOHN CORNER SURVEY, Abstract 8, in Montgomery, Montgomery County, Texas, said 0.291 Acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found at the intersection of the South Right-of-Way of Caroline Street (a 30 foot R.O.W.) and the West Right-of-Way of Cemetery Street (a 45 foot R.O.W.), same being Northeast corner of that certain Tract 2 containing 1.076 Acres conveyed from Glenn E. Schneider, etux to Darron Kirk Jones, etux by a deed dated July 30, 2007 and recorded under Clerk's File No. 2007090680, of the Deed Records of Montgomery County, Texas (M.C.D.R.);

THENCE North 89 deg. 53 min. 45 sec. East, along the South Right-of-Way of said Caroline Street, a distance of 44.83 feet to a 5/8 inch iron rod with cap set a point for corner;

THENCE South 00 deg. 04 min. 52 sec. West, along the East Right-of-Way of said Cemetery Street, same being the West line of that certain 0.101 Acre tract of land conveyed from Lee S. Russell, Jr., Joe C. Shockley and Robert Johnston, County Trustees for FIRST BAPTIST CHURCH, Montgomery Texas to MONTGOMERY HISTORICAL SOCIETY, Montgomery, Texas by a deed dated February 14, 1988 and recorded under Clerk's File No. 8811531, M.C.D.R., at a distance of 73.81 feet pass a 1/2 inch iron rod found at the Northwest corner of that certain Tract 1 containing 0.602 Acres conveyed from Glenn E. Schneider, etux to Darron Kirk Jones, etux by a deed dated July 30, 2007 and recorded under Clerk's File No. 2007090680, MC.D.R., and continuing in all a distance of 242.85 feet to an "X" found in concrete at a point for corner;

THENCE North 89 deg. 29 min. 50 sec. West, along the South Right-of-Way of said Cemetery Street, a distance of 13.23 feet to a Mag Nail found in asphalt at a point for corner;

THENCE South 65 deg. 17 min. 43 sec. West, at a distance of 35.22 feet pass a 5/8 inch iron rod with cap found along the Southeast Right-of-Way of said Cemetery Street, continuing in all a distance of 65.73 feet to a 5/8 inch iron rod with cap set at a point for corner;

THENCE North 00 deg. 49 min. 19 sec. West, a distance of 42.49 feet to a 5/8 inch iron rod with cap set at a point for corner;


THENCE North 89 deg. 41 min. 27 sec. West, a distance of 14.54 feet to a point for corner, from which a 5/8 inch iron rod was found West, 0.26 feet and a 1/2 inch iron rod bears North 89 deg. 15 min. 13 sec. West, 8.10 feet;

THENCE North 65 deg. 17 min. 43 sec. East, along the South line of said Tract 2 containing 1.076 Acres, a distance of 46.46 feet to a point for corner, from which a 5/8 inch iron rod was found South, 0.54 feet and West, 0.57 feet;

THENCE North 00 deg. 23 min. 03 sec. East, along the West Right-of-Way of said Cemetery Street, same being the West line of said Tract 2 containing 1.076 Acres, a distance of 208.14 feet to the POINT

OF BEGINNING, containing within these calls 0.291 Acres or 12,685 Square Feet of land, as depicted by a plat prepared by Donald K. Hall, R.P.L.S. No. 4070 dated October 10, 2013.

WITNESS MY HAND AND SEAL THIS THE 10th DAY OF October, 2013.


Donald K. Hall Registered Professional Land Surveyor No. 4070

**VALUE TECHNOLOGIES,
SURVEYING & MAPPING**

14306 Summerwood Lakes Drive
Houston, Texas 77044-5078



Phone: (281) 225-8876
Fax : (281) 225-8877
JOB No.: 813#1248

EXHIBIT A

METES AND BOUNDS DESCRIPTION

The Proposed Abandonment part of Church Street from Pond Street to Cemetery Street

Of 0.0635 Acres or 2,768 Square Feet of land being the proposed abandonment of part of Church Street between Pond Street and Cemetery Street, lying in the JOHN CORNER SURVEY, Abstract 8, in Montgomery, Montgomery County, Texas, said 0.0635 Acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with cap set at the intersection of the South Right-of-Way of Church Street (a 15 foot R.O.W.) and the West Right-of-Way of Pond Street (a 30 foot R.O.W.);

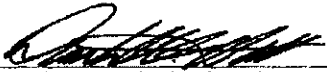
THENCE North 89 deg. 29 min. 50 sec. West, along the South Right-of-Way of said Church Street same being the North line of a cemetery tract, a distance of 200.48 feet to a 5/8 inch iron with cap set at a point for corner;

THENCE North 65 deg. 17 min. 43 sec. East, along the Southeast Right-of-Way of Cemetery Street (a 45 foot R.O.W.), a distance of 35.22 feet to a Mag Nail set in asphalt at a point for corner;

THENCE South 89 deg. 29 min. 50 sec. East, along the North Right-of-Way of said Church Street, at a distance of 15.50 feet pass an "X" in concrete found at the Southwest corner of that certain Tract 1 containing 0.602 Acres conveyed from Glenn E. Schneider, etux to Darron Kirk Jones, etux by a deed dated July 30, 2007 and recorded under Clerk's File No. 2007090680, of the Deed Records of Montgomery County, Texas, and continuing along the South line of said 0.602 Acre tract in all a distance of 164.64 feet to a 1/2 inch iron rod with cap set at a point for corner;

THENCE South 00 deg. 36 min. 34 sec. West, along the West Right-of-Way of said Pond Street, a distance of 15.00 feet to the POINT OF BEGINNING, containing within these calls 0.0635 Acres or 2,768 Square Feet of land, as depicted by a plat prepared by Donald K. Hall, R.P.L.S. No. 4070 dated February 11, 2013.

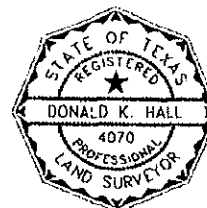
WITNESS MY HAND AND SEAL THIS THE 11th DAY OF February, 2013.



Donald K. Hall Registered Professional Land Surveyor No. 4070



14306 Summerwood Lakes Drive
Houston, Texas 77044-5078



Phone: (281) 225-8876
Fax : (281) 225-8877
JOB No.: 213#1248

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Living Savior Lutheran Church
 Montgomery, TX United States

Certificate Number:
 2018-416580

Date Filed:
 10/18/2018

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Montgomery, Texas

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

1813
 Establishment of an Escrow Account for Plan Reviews and City approvals of construction including variances

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Hames, Peter	Willis, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is PETER HAMES, and my date of birth is 2/9/1943

My address is 7175 KINGSTON COVE LN, WILLIS, TX, 77318, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in MONTGOMERY County, State of TEXAS, on the 18 day of OCT, 20 18.
(month) (year)

Peter Hames
 Signature of authorized agent of contracting business entity (Declarant)

FEE HAS BEEN PAID: \$6,000 ON 10/18/18

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
	Exhibits: Letter of renewal to DeWitt Lawson, January 19, 2018, Receipt of renewal vendor permit, Application for vendors completed by Mr. DeWitt Lawson, Certificate of Insurance
Prepared By: Jack Yates City Administrator	
Date Prepared: November 8, 2018	

Subject

This is a request from DeWitt Lawson to renew an existing Special Use Permit granted for this address to him in January 2018.

Description

This is to consider a renewal of firewood sales in a residential zoned area at 14611 North Liberty Street to DeWitt Lawson.
This property is much cleaner than it has been in the past. Mr. Lawson complied with the rules in keeping a safe and sanitary condition throughout his permit term last season.

Recommendation

Motion to approve the renewal contingent upon the property must be maintained in a safe and sanitary condition according to standards determined by the Code Enforcement Officer and if not accomplished, the permit is immediately revoked and can be reapplied for to the City Council.

Approved By

City Administrator	Jack Yates	Date: November 8, 2018
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CITY OF MONTGOMERY

P. O. BOX 708 MONTGOMERY, TEXAS 77356

Telephone: (936) 597-6434 / 597-6866

January 19, 2018

Mr. DeWitt Lawson
14611 Liberty Street
Montgomery, Texas 77356

Dr. Mr. Lawson,

Please be advised that the City of Montgomery City Council, during their regular meeting held on January 9, 2018 approved the renewal of your Special Use Permit for selling firewood at 14611 Liberty Street, Montgomery, Texas 77356. The renewal will expire on November 15, 2018.

A term of this permit is: The property must be maintained in a safe and sanitary condition according to standards determined by the Code Enforcement Officer and if not accomplished, the Special Use Permit is immediately revoked and can be reapplied for to the City Council.

Sincerely,

Jack Yates
City Administrator

Received by:

(Signature)

CITY OF MONTGOMERY
P.O. BOX 708
MONTGOMERY, TX 77356
PHONE: 936-597-6434 FAX: 936-597-6437

APPLICATION FOR VENDORS

Name: Dewitt Lawson

Address: 14611, Liberty St., 77356

Phone #: (713) 894.3136

Class of permit: (check one)

Peddler _____

Hawker _____

Solicitor _____

Transient dealer _____

Mobile food unit _____

~~Roadside food vendor~~ Firewood Sales

I have had no permit issued pursuant to this division revoked in the previous one-year period
No

Full description of merchandise to be sold or for which the purchase is to be solicited:

Firewood

Signature of Applicant Dewitt Lawson

Date of Application 9 Nov 18

Approved/City Employee [Signature] DATE McCorquodale



RLI Insurance Company
 P.O. Box 3967 Peoria IL 61612-3967
 Phone: (309)692-1000 Fax: (309)683-1610

LICENSE AND PERMIT BOND

Bond No. LSM1154601

KNOW ALL MEN BY THESE PRESENTS:

That we, Dewitt Lawson DBA Lawson Firewood
14611 Liberty
Montgomery, TX 77356

as Principal, and the RLI Insurance Company, a corporation duly licensed to do business in the state of Texas, as Surety, are held and firmly bound unto the City of Montgomery, State of Texas, Obligee, in the penal sum of One Thousand and 00/100 (\$ 1,000.00) DOLLARS, lawful money of the United States, to be paid to the said Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, jointly and severally by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH. That whereas, the said Principal has been licensed as a(n) Vendor by the Obligee.

NOW, THEREFORE, if the said Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all Amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect for a period commencing on the 2nd day of January, 2018, and ending on the 2nd day of January, 2019.

This bond may be terminated at any time by the Surety upon sending written notice to the clerk of the Political Subdivision with whom this bond is filed and to the Principal, addressed to them at their first known address, and at the expiration of thirty (30) days from the mailing of said notice, or as soon thereafter as permitted by applicable law, whichever is later; this bond shall terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date.

Dated this 2nd day of January, 2018.

Dewitt Lawson
 Principal
 (Individual, Partner or Corporate Officer)



RLI Insurance Company
 By B. W. Davis
 Barton W. Davis Vice President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/08/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Office Of Montgomery 19700 Hwy 105 W Montgomery TX 77356	CONTACT NAME: Harvey LeMaster
	PHONE (A/C, No, Ext): 936-582-2330 FAX (A/C, No): 936-582-2331
	E-MAIL ADDRESS: lemasterharvey@yahoo.com
INSURER(S) AFFORDING COVERAGE	
INSURER A: Scottsdale Insurance Co	NAIC #
INSURED Lawson Firewood DBA Dewitt Lawson 14611 Liberty St Montgomery Tx 77356	INSURER B: RLI Bonding Company
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input type="checkbox"/>	<input type="checkbox"/>	CPS0032476	11/08/2018	11/08/2019	EACH OCCURRENCE \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 300,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 300,000
	OTHER:						\$
	AUTOMOBILE LIABILITY	<input type="checkbox"/>	<input type="checkbox"/>				COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY	<input type="checkbox"/>	<input type="checkbox"/>				PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						\$
	<input type="checkbox"/> NON-OWNED AUTOS ONLY						\$
	UMBRELLA LIAB	<input type="checkbox"/>	<input type="checkbox"/>				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/>	<input type="checkbox"/>				AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	N/A				E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
B	RLI Bonding Co	<input type="checkbox"/>	<input type="checkbox"/>	LSM1154601	01/02/2018	01/02/2019	\$1,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Firewood Sales

CERTIFICATE HOLDER City Of Montgomery P O Box 708 Montgomery, Tx 77356	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Harvey LeMaster <i>Harvey LeMaster</i>
---	---

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RLI Insurance Company
 P.O. Box 3967 Peoria IL 61612-3967
 Phone: (309)692-1000 Fax: (309)683-1610

POWER OF ATTORNEY

RLI Insurance Company

Bond No. LSM1154601

Know All Men by These Presents:

That the RLI Insurance Company, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: Barton W. Davis in the City of Peoria, State of Illinois, as Vice President, with full power and authority hereby conferred upon him/her to sign, execute, acknowledge and deliver for and on its behalf as Surety, in general, any and all bonds, undertakings, and recognizances in an amount not to exceed One Million and 00/100 Dollars (\$ 1,000,000.00) for any single obligation, and specifically for the following described bond.

Principal: Dewitt Lawson DBA Law on Firewood
 Obligee: City of Montgomery (Verify only when a County, City, Town or Village is named as Obligee)
 Type Bond: Vendor
 Bond Amount: \$ 1,000.00
 Effective Date: January 2, 2018


The RLI Insurance Company further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its Vice President with its corporate seal affixed this 2nd day of January, 2018.

ATTEST:
Cherie L. Montgomery Assistant Secretary
 Barton W. Davis Vice President

On this 2nd day of January, 2018 before me, a Notary Public, personally appeared Barton W. Davis and Cherie L. Montgomery, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said RLI Insurance Company and acknowledged said instrument to be the voluntary act and deed of said corporation.

Gretchen L. Johnigk Notary Public


Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Memo from City Attorney Petition for Consent to the Creation of a Municipal Utility District
Date Prepared: November 5, 2018	

Subject

This is to consider approval of petition for the creation of Montgomery County MUD #150 that will serve the Montgomery Ridge development area.

Description

As explained in the cover letter by the City Attorney, this is a request for you to consent to a petition for the creation of the Montgomery County Municipal Utility District (MUD) #150. The district is proposed to be located behind the KOA campground on approximately 126.846 acres.

In the past the City Council has twice declined to request to serve the area with City utilities. Thus, the developer will be looking to be served by the city of Conroe, and because the property is in the ETJ of both the city of Conroe and city of Montgomery and a MUD can opt to be completely in one city ETJ or the other, the MUD Board (with your consent of this petition) will eventually approve a resolution to be completely in Conroe's ETJ. That resolution does not require approval of either city.

City Attorney recommends no objection to the approval of the creation of the Montgomery County MUD # 150.

Recommendation

Motion to consent to a petition for the creation of Montgomery County MUD # 150

Montgomery City Council
AGENDA REPORT

Approved By

City Administrator

Jack Yates

Date: November 5, 2018

DARDEN, FOWLER AND CREIGHTON, L.L.P.

ATTORNEYS AT LAW

414 WEST PHILLIPS

SUITE 100

CONROE, TEXAS 77301-2880

GEO B. DARDEN (1904-1994)
WILLIAM E. FOWLER (1924-1982)
GERALD J. CREIGHTON, JR. (1930-2014)
G. MARK CREIGHTON
LARRY L. FOERSTER
ROBERT A. ROSENQUIST

CONROE
(936) 756-3337
HOUSTON - METRO
936-441-1963
FAX NUMBER
(936) 756-2606

October 31, 2018

TO: Mayor and City Council, City of Montgomery

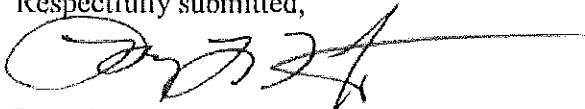
RE: Petition for Approval of the Creation of Montgomery County MUD No. 150

The Montgomery City Council has been asked to consent to a petition for the creation of the Montgomery County Municipal Utility District No. 150, located behind the KOA campgrounds on approximately 126.846 acres. The MUD will serve a new "Montgomery Ridge" residential subdivision being developed by the Signorelli Company, under the Montgomery Ridge Limited Partnership. The MUD lies partially in the Conroe EJT and partially in the Montgomery ETJ. The MUD was created by legislation in 2015. The implementing legislation requires both cities to approve the creation of the MUD before an election of temporary MUD directors can be held.

You will recall that on two previous occasions the developer inquired as to whether our City would be willing to provide water and sewer utilities to the development. The city council declined on each occasion due to concerns about the impact to existing city utility capacities. Thus, the developer will be looking to be served by the city of Conroe. Under Section 54.0163 of the Texas Water Code, a MUD board can opt to be completely in one city ETJ or the other. It is expected that the MUD board will eventually vote by resolution to be completely in Conroe's ETJ. That resolution does not require the approval of either city.

The City staff has no objection to the approval of the creation of Montgomery County MUD No. 150.

Respectfully submitted,



Larry L. Foerster
City Attorney

ALLEN BOONE HUMPHRIES ROBINSON LLP

ATTORNEYS AT LAW

PHOENIX TOWER
3200 SOUTHWEST FREEWAY
SUITE 2600
HOUSTON, TEXAS 77027
TEL (713) 860-6400
FAX (713) 860-6401
abhr.com

Direct Line: (713) 860-6427

Direct Fax: (713) 860-6627

yonak@abhr.com

Yvonne Onak
Legal Assistant

October 18, 2018

BY FEDERAL EXPRESS

Ms. Susan Hensley
City Secretary
City of Montgomery
101 Old Plantersville Rd.
Montgomery, TX 77356

Re: Consent to Creation of Montgomery County Municipal Utility District No. 150
(the "District")

Dear Ms. Hensley:

Enclosed for your review are the following documents:

- (1) Petition for Consent to Creation of the District;
- (2) Boundary map and vicinity map of the District; and
- (3) Creation Legislation.

Please present the Petition for Consent to City Council for consideration and approval at the next Council meeting. If you have any questions or if you need additional information, please call me at the number above or email me at yonak@abhr.com. Thank you for your assistance in this matter.

Sincerely,



Yvonne Onak
Legal Assistant

Enclosures

cc: Mr. David Oliver (Firm)

October 18, 2018

Page 2 of 2

Mr. Robert A. Seale (Firm)

Ms. Alyssa Ollwerther (Firm)

PETITION FOR CONSENT TO THE CREATION
OF A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
MONTGOMERY, TEXAS:

The undersigned MONTGOMERY RIDGE, LIMITED, a Texas limited partnership (the "Petitioner"), acting pursuant to the provisions of Chapter 7918, Special District Local Laws Code and Chapters 49 and 54, Texas Water Code, respectfully petitions the City Council of the City of Montgomery, Texas (the "City"), for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 150 (the "District").

II.

The District was created during the 84th Regular Session of the Texas Legislature through the passage of SB 2026, effective on June 18, 2015. The District was created and organized pursuant to the powers granted to the Legislature by Section 59, Article XVI, of the Constitution of Texas and pursuant to the inherent power of the Legislature to create a local governmental agency and a political subdivision of the State of Texas.

III.

The District contains an area of 126.846 acres of land, more or less, situated in Montgomery County, Texas. All of the land included in the District is within the extraterritorial jurisdiction (as such term is defined in Local Government Code Section 42.001 et seq., as amended) of the City and of the City of Conroe, Texas. All of the land proposed to be included may properly be included in the District. The land proposed to be included within the District consists of one tract described by metes and bounds in **Exhibit A**, which is attached hereto and incorporated herein for all purposes (the "Land").

IV.

The Petitioner holds fee simple title to the Land, as indicated by the certificate of ownership of the Montgomery Central Appraisal District.

V.

The Petitioner represents that there are no residents on the Land. The Petitioner represents that there are no lienholders on the Land other than Prosperity Bank, a Texas banking corporation.

VI.

The general nature of the work to be done by the District at the present time is the design, construction, acquisition, maintenance and operation of a waterworks and sanitary sewer system for domestic and commercial purposes, the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, as shall be consistent with all of the purposes for which the District is created, including roads and park and recreational facilities.

VII.

There is, for the following reasons, a necessity for the above-described work. The Land is urban in nature, is within the growing environs of the City, and is in close proximity to populous and developed sections of Montgomery County, Texas. There is not now available within the area, which will be developed for single family residential and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system or adequate roads or park and recreational facilities. The health and welfare of the present and future inhabitants of the area and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, drainage and storm sewer systems, roads and park and recreational facilities. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, drainage and storm sewer systems, roads and park and recreational facilities to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VIII.

The undersigned hereby agrees and covenants that if the requested consent to the creation of the District is given, the undersigned will adopt and abide by, and will cause the District upon its final creation to adopt and abide by, the conditions set forth in **Exhibit B** attached hereto and incorporated herein for all purposes.

IX.

A preliminary investigation has been made to determine the cost of the proposed District's waterworks system, sanitary sewer system, and drainage and storm sewer system projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$12,727,207.

X.

A preliminary investigation has been made to determine the cost of the proposed District's road projects, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$5,633,824.

XI.

A preliminary investigation has been made to determine the cost of the proposed District's park and recreational facilities, and it is now estimated by the Petitioner, from such information as it has at this time, that such cost will be approximately \$335,313.

XII.

The total cost of the proposed District's projects is estimated by the Petitioner to be approximately \$18,696,344.

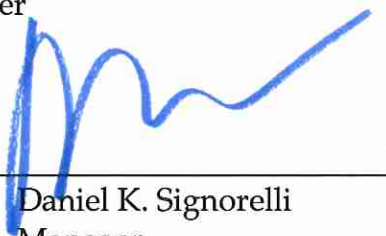
WHEREFORE, the Petitioner prays that this petition be heard and that the City Council duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

[EXECUTION PAGE FOLLOWS.]

RESPECTFULLY SUBMITTED this 27 day of June, 2018.

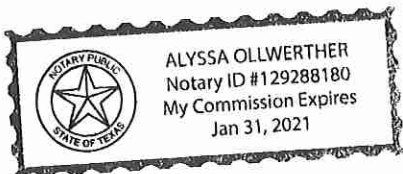
MONTGOMERY RIDGE, LIMITED, a Texas limited partnership


By: Montgomery Ridge Operating Company, LLC, a Texas limited liability company, its General Partner

By: 
Daniel K. Signorelli
Manager

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this 27 day of June, 2018, by Daniel K. Signorelli, Manager of Montgomery Ridge Operating Company, LLC, a Texas limited liability company, General Partner of MONTGOMERY RIDGE, LIMITED, a Texas limited partnership, on behalf of said limited partnership and said limited liability company.





Notary Public, State of Texas

(NOTARY SEAL)

Attachments:
Exhibit A –Description of the Land
Exhibit B – Conditions of the City

126.846 Acres in 2 Tracts EXHIBIT A

FIELD NOTE DESCRIPTION
22.551 ACRES IN THE JOHN CORNER SURVEY A-8,
MONTGOMERY COUNTY, TEXAS

BEING a 22.551 acre tract of land situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, and being a portion of that certain 35.7767 acre tract described in deed to H and T Partnership recorded under County Clerk's File No. 9413864 of the Official Public Records of Montgomery County, Texas, and being that same tract described in deed to Joe D. Havens recorded under County Clerk's File No. 99010873,m said 22.551 acre tract being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found for the most easterly corner of said H and T Partnership 35.7767 acre tract, also being the northwesterly corner of a lot 21, Block 6, of ROMAN HILLS SECTION ONE, according to the map or plat thereof recorded in Cabinet A, Sheet 81 of the Map Records of Montgomery County, Texas, and the southeasterly corner of a 24.04 acre tract described in deed to D.C. Van Orden recorded under County Clerk's File No. 2004-133004;

THENCE with the westerly line of ROMAN HILLS SECTION ONE South 12° 30' 08" West a distance of 350.06 feet to a 5/8 inch iron rod found for the northeasterly corner of a 50.014 acre tract described in deed to Westland Oil Development Corporation recorded under County Clerk's File No. 8038846, now part of those tracts conveyed to Cross Development Montgomery LLC recorded under County Clerk's File No. 2007-037729;

THENCE with the northerly line of said 50.014 acre tract North 89° 58' 53" West a distance of 1619.79 feet to a 5/8 inch iron rod found for corner;

THENCE North 00° 00' 00" East (NORTH) a distance of 178.31 feet to a 5/8 inch iron rod found for corner;

THENCE South 90° 00' 00" West (WEST) a distance of 414.30 feet to a 5/8 inch iron rod found in the easterly right-of-way line of a 60 foot wide Roadway Easement recorded under County Clerk's File No. 9219822;

THENCE with the easterly line of said Roadway Easement the following courses:

FIELD NOTE DESCRIPTION
22.551 ACRES IN THE JOHN CORNER SURVEY, A-8
MONTGOMERY COUNTY, TEXAS
PAGE 2

Northeasterly with a curve to the right having a radius of 436.54 feet, an arc length of 188.57 feet through a central angle of 24° 44' 57" (chord bearing N 38° 23' 02" E 187.10 feet) to a 5/8 inch iron rod found for corner;

North 50° 45' 30" East a distance of 103.78 feet to a 5/8 inch iron rod found for corner;

Northeasterly with a curve to the left having a radius of 1296.57 feet, an arc length of 848.71 feet, through a central angle of 37° 30' 17" (chord bearing N 32° 00' 21" E 83.64 feet) to a 5/8 inch iron rod found for the southwesterly corner of a 4.905 acre tract described in deed to Secure Cash Network recorded under County Clerk's File No. 2006-032988;

THENCE departing said Roadway Easement South 76° 46' 58" East a distance of 10.57 feet to a 5/8 inch iron rod found in the easterly line of said 35.7767 acre parent tract and westerly line of a 54.14 acre tract described in deed to William Wilcox recorded under County Clerk's File No. 2000-099370;

THENCE South 13° 14' 32" West a distance of 416.30 feet to a 5/8 inch iron rod found for Wilcox's southwesterly corner;

THENCE South 76° 46' 57" East a distance of 1075.77 feet to a 5/8 inch iron rod found for Wilcox's southeasterly corner and southwesterly corner of said 24.04 acre Van Orden tract;

THENCE with Van Orden's southerly line South 78° 36' 00" East a distance of 519.54 feet to the POINT OF BEGINNING.

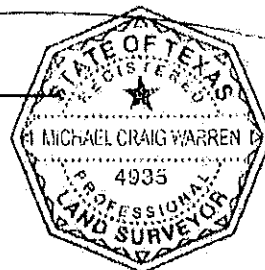
CONTAINING a computed area of 22.551 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on August 2011 by Quadrant Solutions, Registered Professional Land Surveyors and is referenced to Survey Drawing Job No. 330611.

2/23/14
Date

[Signature]

Michael C. Warren
R.P.L.S. No. 4935



FIELD NOTE DESCRIPTION
104.295 ACRES IN THE JOHN CORNER SURVEY A-8,
& WILLIAM W. SHEPPERD SURVEY, A-480
MONTGOMERY COUNTY, TEXAS

BEING a 104.295 acre tract of land situated in the John Corner Survey, Abstract No. 8 and William W. Shepperd Survey, Abstract No. 480, Montgomery County, Texas, and being portions of a 111.857 acre tract and a 33.863 acre tract described in deed to Joe and Margaret Havens recorded under County Clerk's File No. 9512940 of the Official Public Records of Montgomery County, Texas, said 104.295 acre tract being more particularly described as follows:

BEGINNING at a point for the southwesterly corner of the herein described tract, intersecting the northerly line of Lot 49, Block 1 of HILLTOP RANCH Section One, according to the map or plat thereof recorded in Cabinet O, Sheet 138 of the Map Records of Montgomery County, Texas, with the centerline of a creek marking the southeasterly corner of a 14 acre tract described in deed to Michelle Rod recorded under County Clerk's File No. 9464986;

THENCE with the centerline meanders of said creek with said Michelle Rod tracts and the easterly line of HAVENSHIRE, according to the map or plat thereof recorded in Cabinet H, Sheet 167B of said Map Records, the following courses:

N 26° 13' 05" W a distance of 51.78 feet;

N 28° 45' 08" E a distance of 42.11 feet;

N 09° 57' 01" W a distance of 37.70 feet;

N 00° 20' 47" E a distance of 33.27 feet;

N 08° 19' 59" E a distance of 46.73 feet;

N 17° 53' 25" W a distance of 52.33 feet;

N 02° 01' 03" W a distance of 35.10 feet;

N 20° 27' 58" E a distance of 54.76 feet;

N 77° 51' 46" E a distance of 14.94 feet;

FIELD NOTE DESCRIPTION
104.295 ACRES IN THE JOHN CORNER SURVEY, A-8
& WILLIAM W. SHEPPERD SURVEY, A-340
MONTGOMERY COUNTY, TEXAS
PAGE 2

N 02° 05' 13" E a distance of 32.05 feet;
N 26° 41' 04" E a distance of 48.80 feet;
N 52° 24' 09" E a distance of 33.97 feet;
N 01° 35' 47" W a distance of 22.36 feet;
N 39° 56' 21" E a distance of 23.00 feet;
N 21° 46' 39" E a distance of 53.85 feet;
N 04° 53' 17" W a distance of 72.71 feet;
N 23° 25' 46" E a distance of 52.54 feet;
N 10° 26' 22" W a distance of 56.96 feet;
N 23° 46' 15" W a distance of 87.18 feet;
N 26° 07' 26" E a distance of 93.63 feet;
N 13° 43' 28" E a distance of 94.42 feet;
N 07° 20' 06" W a distance of 64.76 feet;
N 13° 43' 28" E a distance of 94.42 feet;
N 07° 20' 06" W a distance of 64.76 feet;
N 06° 18' 51" E a distance of 65.94 feet;
N 10° 40' 56" E a distance of 67.46 feet;
N 60° 18' 51" E a distance of 30.12 feet;
N 15° 02' 04" W a distance of 89.41 feet;
N 07° 23' 04" W a distance of 39.42 feet;
N 28° 13' 04" W a distance of 77.11 feet;

FIELD NOTE DESCRIPTION
104.295 ACRES IN THE JOHN CORNER SURVEY, A-8
& WILLIAM W. SHEPPERD SURVEY, A-340
MONTGOMERY COUNTY, TEXAS
PAGE 3

N 05° 31' 33" E a distance of 272.91 feet;
N 16° 49' 23" W a distance of 91.96 feet;
N 04° 50' 18" E a distance of 388.64 feet;
N 04° 11' 29" W a distance of 97.63 feet;
N 45° 06' 37" E a distance of 38.26 feet;
N 78° 17' 50" E a distance of 36.42 feet;
N 60° 44' 40" E a distance of 36.96 feet;
N 24° 08' 56" E a distance of 40.27 feet;
N 06° 09' 31" W a distance of 29.13 feet;
N 24° 39' 37" E a distance of 64.56 feet;
N 07° 25' 20" E a distance of 223.80 feet;
N 45° 47' 55" W a distance of 23.01 feet;
N 50° 13' 14" W a distance of 26.04 feet;
N 33° 21' 31" E a distance of 65.51 feet to the southeasterly
corner of HAVENSHIRE;
N 33° 21' 31" E a distance of 12.17 feet;
N 48° 55' 17" E a distance of 37.89 feet;
N 26° 06' 07" E a distance of 71.77 feet;
N 33° 11' 43" E a distance of 28.93 feet;
N 59° 21' 27" E a distance of 18.014 feet;
N 11° 10' 57" E a distance of 43.46 feet;

FIELD NOTE DESCRIPTION
104.295 ACRES IN THE JOHN CORNER SURVEY, A-8
& WILLIAM W. SHEPPERD SURVEY, A-340
MONTGOMERY COUNTY, TEXAS
PAGE 4

N 36° 37' 32" E a distance of 48.15 feet;

N 55° 42' 50" E a distance of 29.84 feet;

N 23° 53' 30" E a distance of 42.50 feet;

N 56° 06' 44" E a distance of 25.39 feet;

N 78° 34' 35" E a distance of 47.29 feet;

S 71° 55' 54" E a distance of 35.75 feet;

N 58° 59' 00" E a distance of 34.65 feet;

N 33° 34' 27" E a distance of 41.01 feet;

N 10° 35' 25" W a distance of 68.96 feet;

N 13° 53' 45" E a distance of 42.68 feet;

N 24° 16' 07" E a distance of 18.96 feet;

N 24° 16' 07" E a distance of 58.38 feet;

N 04° 43' 37" W a distance of 60.72 feet;

N 00° 25' 47" E a distance of 59.18 feet;

N 27° 52' 00" W a distance of 64.19 feet;

N 21° 55' 01" E a distance of 44.33 feet;

N 44° 12' 25" E a distance of 62.23 feet;

N 00° 00' 00" E a distance of 55.00 feet;

N 30° 17' 33" W a distance of 38.49 feet to a point in the easterly line of a 21.245 acre tract described in deed to Texas

FIELD NOTE DESCRIPTION
104.295 ACRES IN THE JOHN CORNER SURVEY, A-8
& WILLIAM W. SHEPPERD SURVEY, A-340
MONTGOMERY COUNTY, TEXAS
PAGE 5

Fund No. 6, L.P. recorded under County Clerk's File No. 2008-092439;

N 14° 51' 565" W a distance of 72.27 feet;

N 11° 26' 33" W a distance of 22.36 feet;

N 85° 29' 27" E a distance of 44.08 feet:

N 80° 22' 25" E a distance of 28.29 feet;

S 82° 25' 56" E a distance of 78.62 feet;

N 75° 27' 29" E a distance of 33.41 feet to a point in the westerly line of a 1.442 acre tract Surveyed by Steve Laughlin, now described in Correction Special Warrant Deed recorded under County Clerk's File No. 2014062252;

THENCE with the westerly line of said 1.442 acre tract the following courses:

S 14° 25' 15" E a distance of 109.29 feet;

S 31° 22' 57" E a distance of 103.76 feet'

S 47° 02' 57" E a distance of 68.02 feet to a point in the westerly line of a 48.450 acre tract described in deed to Kampgrounds of America recorded under County Clerk's File No. 2007-000471;

THENCE with the westerly and southerly lines of said Kampgrounds of America 48.450 acre tract the following courses:

S 29° 07' 31" W a distance of 169.27 feet;

S 10° 09' 55" W a distance of 143.50 feet;

S 62° 00' 58" E a distance of 514.46 feet;

S 47° 30' 15" E a distance of 151.80 feet;

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S 53° 17' 47" W a distance of 186.45 feet;

S 47° 53' 11" E a distance of 387.41 feet;

Southeasterly with a curve to the right having a radius of 245.00 feet, an arc length of 135.99 feet (S 04° 50' 31" E 134.25 feet);

S 53° 56' 16" W a distance of 21.17 feet;

S 21° 34' 47" W a distance of 40.23 feet;

S 67° 48' 53" W a distance of 157.62 feet;

S 09° 57' 31" W a distance of 376.44 feet;

S 74° 20' 34" E a distance of 303.88 feet;

N 64° 45' 21" E a distance of 152.52 feet;

N 32° 20' 41" E a distance of 329.71 feet;

N 49° 49' 48" E a distance of 256.39 feet;

N 62° 12' 41" E a distance of 114.56 feet;

N 48° 05' 27" E a distance of 182.47 feet;

N 23° 15' 09" W a distance of 167.19 feet;

N 81° 45' 56" E a distance of 309.70 feet to a point in the westerly line of a 60 foot wide Roadway Easement (County Clerk's Files No. 9219821, 9219822 and 9212379) also known as Club Drive;

THENCE with the westerly line of said Roadway Easement the following courses:

Southwesterly with a curve to the right having a radius of 1022.90 feet, an arc length of 335.98 feet (S 03° 48' 04" W 335.98');

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S 13° 15' 13" W a distance of 205.00 feet;

Southwesterly with a curve to the left having a radius of 1236.57 feet, an arc length of 809.44 feet (S 32° 00' 22" W 795.06');

S 50° 45' 30" W a distance of 103.78 feet;

Southwesterly with a curve to the right having a radius of 496.54 feet, an arc length of 229.94 feet (S 37° 29' 30" W 227.90 feet);

South 24° 13' 30" West a distance of 13.50 feet to a point in the northerly line of those tracts described in deed to Cross Development recorded under County Clerk's File No. 2007-037729;

THENCE with the northerly line of the Cross Development tract

S 90° 00' 00" W a distance of 719.68 feet to the northeasterly corner of said Havens 33.863 acre tract;

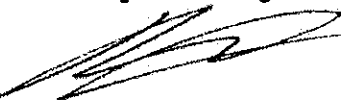
THENCE with the westerly line of said 33.863 acre tract S 00° 00' 00" E a distance of 1353.32 feet to a point in the westerly line of Lot 37, of HILLTOP RANCH and northeasterly corner of Lot 47;

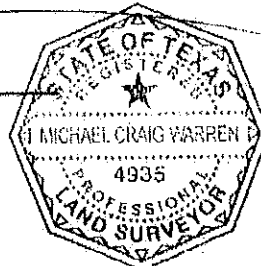
THENCE with the northerly line of Lots 47, 48 and 49 of HILLTOP RANCH N 89° 23' 54" W a distance of 1180.50 feet to the POINT OF BEGINNING.

CONTAINING a computed area of 104.295 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on August 2011 and updated November 2014 by Quadrant Solutions, Registered Professional Land Surveyors and is referenced to Survey Drawing Job No. 427314.

8/23/14
Date


Michael C. Warren
R.P.L.S. No. 4935



1 AN ACT
2 relating to the creation of the Montgomery County Municipal Utility
3 District No. 150; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 7925 to read as follows:

9 CHAPTER 7925. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 150

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7925.001. DEFINITIONS. In this chapter:

12 (1) "Board" means the district's board of directors.

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Montgomery County Municipal
17 Utility District No. 150.

18 Sec. 7925.002. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7925.003. CONFIRMATION AND DIRECTORS' ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 7925.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7925.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 7925.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7925.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7925.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7925.052, directors serve
6 staggered four-year terms.

7 Sec. 7925.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 7925.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 7925.003 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7925.003; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7925.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7925.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7925.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 7925.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 7925.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7925.151. ELECTIONS REGARDING TAXES OR BONDS.

17 (a) The district may issue, without an election, bonds and other
18 obligations secured by:

19 (1) revenue other than ad valorem taxes; or

20 (2) contract payments described by Section 7925.153.

21 (b) The district must hold an election in the manner
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval
23 before the district may impose an ad valorem tax or issue bonds
24 payable from ad valorem taxes.

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 7925.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 7925.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

6 (b) The board shall determine the tax rate. The rate may not
7 exceed the rate approved at the election.

8 Sec. 7925.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

14 (b) A contract approved by the district voters may contain a
15 provision stating that the contract may be modified or amended by
16 the board without further voter approval.

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 7925.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 7925.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 7925.203. BONDS FOR ROAD PROJECTS. At the time of
4 issuance, the total principal amount of bonds or other obligations
5 issued or incurred to finance road projects and payable from ad
6 valorem taxes may not exceed one-fourth of the assessed value of the
7 real property in the district.

8 SECTION 2. The Montgomery County Municipal Utility District
9 No. 150 initially includes all the territory contained in the
10 following area:

11 TRACT 1

12 BEING a 104.295 acre tract of land situated in the John Corner
13 Survey, Abstract No. 8 and William W. Shepperd Survey, Abstract
14 No. 480, Montgomery County, Texas, and being portions of a 111.857
15 acre tract and a 33.863 acre tract described in deed to Joe and
16 Margaret Havens recorded under County Clerk's File No. 9512940 of
17 the Official Public Records of Montgomery County, Texas, said
18 104.295 acre tract being more particularly described as follows:

19 BEGINNING at a point for the southwesterly corner of the
20 herein described tract, intersecting the northerly line of Lot 49,
21 Block 1 of HILLTOP RANCH Section One, according to the map or plat
22 thereof recorded in Cabinet O, Sheet 138 of the Map Records of
23 Montgomery County, Texas, with the centerline of a creek marking
24 the southeasterly corner of a 14 acre tract described in deed to
25 Michelle Rod recorded under County Clerk's File No. 9464986;

26 THENCE with the centerline meanders of said creek with said
27 Michelle Rod tracts and the easterly line of HAVENSHIRE, according

1 to the map or plat thereof recorded in Cabinet H, Sheet 167B of said
2 Map Records, the following courses:

- 3 N 26° 13' 05" W a distance of 51.78 feet;
- 4 N 28° 45' 08" E a distance of 42.11 feet;
- 5 N 09° 57' 01" W a distance of 37.70 feet;
- 6 N 00° 20' 47" E a distance of 33.27 feet;
- 7 N 08° 19' 59" E a distance of 46.73 feet;
- 8 N 17° 53' 25" W a distance of 52.33 feet;
- 9 N 02° 01' 03" W a distance of 35.10 feet;
- 10 N 20° 27' 58" E a distance of 54.76 feet;
- 11 N 77° 51' 46" E a distance of 14.94 feet;
- 12 N 02° 05' 13" E a distance of 32.05 feet;
- 13 N 26° 41' 04" E a distance of 48.80 feet;
- 14 N 52° 24' 09" E a distance of 33.97 feet;
- 15 N 01° 35' 47" W a distance of 22.36 feet;
- 16 N 39° 56' 21" E a distance of 23.00 feet;
- 17 N 21° 46' 39" E a distance of 53.85 feet;
- 18 N 04° 53' 17" W a distance of 72.71 feet;
- 19 N 23° 25' 46" E a distance of 52.54 feet;
- 20 N 10° 26' 22" W a distance of 56.96 feet;
- 21 N 23° 46' 15" W a distance of 87.18 feet;
- 22 N 26° 07' 26" E a distance of 93.63 feet;
- 23 N 13° 43' 28" E a distance of 94.42 feet;
- 24 N 07° 20' 06" W a distance of 64.76 feet;
- 25 N 13° 43' 28" E a distance of 94.42 feet;
- 26 N 07° 20' 06" W a distance of 64.76 feet;
- 27 N 06° 18' 51" E a distance of 65.94 feet;

1 N 10° 40' 56" E a distance of 67.46 feet;
2 N 60° 18' 51" E a distance of 30.12 feet;
3 N 15° 02' 04" W a distance of 89.41 feet;
4 N 07° 23' 04" W a distance of 39.42 feet;
5 N 28° 13' 04" W a distance of 77.11 feet;
6 N 05° 31' 33" E a distance of 272.91 feet;
7 N 16° 49' 23" W a distance of 91.96 feet;
8 N 04° 50' 18" E a distance of 388.64 feet;
9 N 04° 11' 29" W a distance of 97.63 feet;
10 N 45° 06' 37" E a distance of 38.26 feet;
11 N 78° 17' 50" E a distance of 36.42 feet;
12 N 60° 44' 40" E a distance of 36.96 feet;
13 N 24° 08' 56" E a distance of 40.27 feet;
14 N 06° 09' 31" W a distance of 29.13 feet;
15 N 24° 39' 37" E a distance of 64.56 feet;
16 N 07° 25' 20" E a distance of 223.80 feet;
17 N 45° 47' 55" W a distance of 23.01 feet;
18 N 50° 13' 14" W a distance of 26.04 feet;
19 N 33° 21' 31" E a distance of 65.51 feet to the
20 southeasterly corner of HAVENSHIRE;
21 N 33° 21' 31" E a distance of 12.17 feet;
22 N 48° 55' 17" E a distance of 37.89 feet;
23 N 26° 06' 07" E a distance of 71.77 feet;
24 N 33° 11' 43" E a distance of 28.93 feet;
25 N 59° 21' 27" E a distance of 18.014 feet;
26 N 11° 10' 57" E a distance of 43.46 feet;
27 N 36° 37' 32" E a distance of 48.15 feet;

1 N 55° 42' 50" E a distance of 29.84 feet;
2 N 23° 53' 30" E a distance of 42.50 feet;
3 N 56° 06' 44" E a distance of 25.39 feet;
4 N 78° 34' 35" E a distance of 47.29 feet;
5 S 71° 55' 54" E a distance of 35.75 feet;
6 N 58° 59' 00" E a distance of 34.65 feet;
7 N 33° 34' 27" E a distance of 41.01 feet;
8 N 10° 35' 25" W a distance of 68.96 feet;
9 N 13° 53' 45" E a distance of 42.68 feet;
10 N 24° 16' 07" E a distance of 18.96 feet;
11 N 24° 16' 07" E a distance of 58.38 feet;
12 N 04° 43' 37" W a distance of 60.72 feet;
13 N 00° 25' 47" E a distance of 59.18 feet;
14 N 27° 52' 00" W a distance of 64.19 feet;
15 N 21° 55' 01" E a distance of 44.33 feet;
16 N 44° 12' 25" E a distance of 62.23 feet;
17 N 00° 00' 00" E a distance of 55.00 feet;
18 N 30° 17' 33" W a distance of 38.49 feet to a point in the
19 easterly line of a 21.245 acre tract described in deed to
20 Texas Fund No. 6, L.P. recorded under County Clerk's File
21 No. 2008-092439;
22 N 14° 51' 56" W a distance of 72.27 feet;
23 N 11° 26' 33" W a distance of 22.36 feet;
24 N 85° 29' 27" E a distance of 44.08 feet;
25 N 80° 22' 25" E a distance of 28.29 feet;
26 S 82° 25' 56" E a distance of 78.62 feet;
27 N 75° 27' 29" E a distance of 33.41 feet to a point in the

1 westerly line of a 1.442 acre tract Surveyed by Steve
2 Laughlin, now described in Correction Special Warrant Deed
3 recorded under County Clerk's File No. 2014062252;

4 THENCE with the westerly line of said 1.442 acre tract the
5 following courses:

6 S 14° 25' 15" E a distance of 109.29 feet;

7 S 31° 22' 57" E a distance of 103.76 feet;

8 S 47° 02' 57" E a distance of 68.02 feet to a point in the
9 westerly line of a 48.450 acre tract described in deed to
10 Kampgrounds of America recorded under County Clerk's File
11 No. 2007-000471;

12 THENCE with the westerly and southerly lines of said
13 Kampgrounds of America 48.450 acre tract the following courses:

14 S 29° 07' 31" W a distance of 169.27 feet;

15 S 10° 09' 55" W a distance of 143.50 feet;

16 S 62° 00' 58" E a distance of 514.46 feet;

17 S 47° 30' 15" E a distance of 151.80 feet;

18 S 53° 17' 47" W a distance of 186.45 feet;

19 S 47° 53' 11" E a distance of 387.41 feet;

20 Southeasterly with a curve to the right having a radius
21 of 245.00 feet, an arc length of 135.99 feet (S 04° 50' 31" E
22 134.25 feet);

23 S 53° 56' 16" W a distance of 21.17 feet;

24 S 21° 34' 47" W a distance of 40.23 feet;

25 S 67° 48' 53" W a distance of 157.62 feet;

26 S 09° 57' 31" W a distance of 376.44 feet;

27 S 74° 20' 34" E a distance of 303.88 feet;

1 N 64° 45' 21" E a distance of 152.52 feet;
2 N 32° 20' 41" E a distance of 329.71 feet;
3 N 49° 49' 48" E a distance of 256.39 feet;
4 N 62° 12' 41" E a distance of 114.56 feet;
5 N 48° 05' 27" E a distance of 182.47 feet;
6 N 23° 15' 09" W a distance of 167.19 feet;
7 N 81° 45' 56" E a distance of 309.70 feet to a point in
8 the westerly line of a 60 foot wide Roadway Easement (County
9 Clerk's Files No. 9219821, 9219822 and 9212379) also known as
10 Club Drive;
11 THENCE with the westerly line of said Roadway Easement the
12 following courses:
13 Southwesterly with a curve to the right having a radius
14 of 1022.90 feet, an arc length of 335.98 feet (S 03° 48' 04" W
15 335.98');
16 S 13° 15' 13" W a distance of 205.00 feet;
17 Southwesterly with a curve to the left having a radius
18 of 1236.57 feet, an arc length of 809.44 feet (S 32° 00' 22" W
19 795.06');
20 S 50° 45' 30" W a distance of 103.78 feet;
21 Southwesterly with a curve to the right having a radius
22 of 496.54 feet, an arc length of 229.94 feet (S 37° 29' 30" W
23 227.90 feet);
24 South 24° 13' 30" West a distance of 13.50 feet to a
25 point in the northerly line of those tracts described in deed
26 to Cross Development recorded under County Clerk's File
27 No. 2007-037729;

1 THENCE with the northerly line of the Cross Development tract
2 S 90° 00'00" W a distance of 719.68 feet to the northeasterly corner
3 of said Havens 33.863 acre tract;

4 THENCE with the westerly line of said 33.863 acre tract S 00°
5 00' 00" E a distance of 1353.32 feet to a point in the westerly line
6 of Lot 37, of HILLTOP RANCH and northeasterly corner of Lot 47;

7 THENCE with the northerly line of Lots 47, 48 and 49 of
8 HILLTOP RANCH N 89° 23' 54" W a distance of 1180.50 feet to the POINT
9 OF BEGINNING.

10 CONTAINING a computed area of 104.295 acres of land within
11 this Field Note Description.

12 TRACT 2

13 BEING a 22.551 acre tract of land situated in the John Corner
14 Survey, Abstract No. 8, Montgomery County, Texas, and being a
15 portion of that certain 35.7767 acre tract described in deed to H
16 and T Partnership recorded under County Clerk's File No. 9413864 of
17 the Official Public Records of Montgomery County, Texas, and being
18 that same tract described in deed to Joe D. Havens recorded under
19 County Clerk's File No. 99010873,m said 22.551 acre tract being
20 more particularly described as follows:

21 BEGINNING at a 5/8 inch iron rod found for the most easterly
22 corner of said H and T Partnership 35.7767 acre tract, also being
23 the northwesterly corner of a lot 21, Block 6, of ROMAN HILLS
24 SECTION ONE, according to the map or plat thereof recorded in
25 Cabinet A, Sheet 81 of the Map Records of Montgomery County, Texas,
26 and the southeasterly corner of a 24.04 acre tract described in deed
27 to D.C. Van Orden recorded under County Clerk's File

1 No. 2004-133004;

2 THENCE with the westerly line of ROMAN HILLS SECTION ONE
3 South 12° 30' 08" West a distance of 350.06 feet to a 5/8 inch iron
4 rod found for the northeasterly corner of a 50.014 acre tract
5 described in deed to Westland Oil Development Corporation recorded
6 under County Clerk's File No. 8038846, now part of those tracts
7 conveyed to Cross Development Montgomery LLC recorded under County
8 Clerk's File No. 2007-037729;

9 THENCE with the northerly line of said 50.014 acre tract
10 North 89° 58' 53" West a distance of 1619.79 feet to a 5/8 inch iron
11 rod found for corner;

12 THENCE North 00° 00' 00" East (NORTH) a distance of 178.31
13 feet to a 5/8 inch iron rod found for corner;

14 THENCE South 90° 00' 00" West (WEST) a distance of 414.30 feet
15 to a 5/8 inch iron rod found in the easterly right-of-way line of a
16 60 foot wide Roadway Easement recorded under County Clerk's File
17 No. 9219822;

18 THENCE with the easterly line of said Roadway Easement the
19 following courses:

20 Northeasterly with a curve to the right having a radius
21 of 436.54 feet, an arc length of 188.57 feet through a central
22 angle of 24° 44' 57" (chord bearing N 38° 23' 02" E 187.10 feet)
23 to a 5/8 inch iron rod found for corner;

24 North 50° 45' 30" East a distance of 103.78 feet to a 5/8
25 inch iron rod found for corner;

26 Northeasterly with a curve to the left having a radius
27 of 1296.57 feet, an arc length of 848.71 feet, through a

1 central angle of 37° 30' 17" (chord bearing N 32° 00' 21" E
2 83.64 feet) to a 5/8 inch iron rod found for the southwesterly
3 corner of a 4.905 acre tract described in deed to Secure Cash
4 Network recorded under County Clerk's File No. 2006-032988;
5 THENCE departing said Roadway Easement South 76° 46' 58" East
6 a distance of 10.57 feet to a 5/8 inch iron rod found in the easterly
7 line of said 35.7767 acre parent tract and westerly line of a 54.14
8 acre tract described in deed to William Wilcox recorded under
9 County Clerk's File No. 2000-099370;

10 THENCE South 13° 14' 32" West a distance of 416.30 feet to a 5/8
11 inch iron rod found for Wilcox's southwesterly corner;

12 THENCE South 76° 46' 57" East a distance of 1075.77 feet to a
13 5/8 inch iron rod found for Wilcox's southeasterly corner and
14 southwesterly corner of said 24.04 acre Van Orden tract;

15 THENCE with Van Orden's southerly line South 78° 36' 00" East
16 a distance of 519.54 feet to the POINT OF BEGINNING.

17 CONTAINING a computed area of 22.551 acres of land within
18 this Field Note Description.

19 SECTION 3. (a) The legal notice of the intention to
20 introduce this Act, setting forth the general substance of this
21 Act, has been published as provided by law, and the notice and a
22 copy of this Act have been furnished to all persons, agencies,
23 officials, or entities to which they are required to be furnished
24 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
25 Government Code.

26 (b) The governor, one of the required recipients, has
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

2 (c) The Texas Commission on Environmental Quality has filed
3 its recommendations relating to this Act with the governor, the
4 lieutenant governor, and the speaker of the house of
5 representatives within the required time.

6 (d) All requirements of the constitution and laws of this
7 state and the rules and procedures of the legislature with respect
8 to the notice, introduction, and passage of this Act are fulfilled
9 and accomplished.

10 SECTION 4. (a) If this Act does not receive a two-thirds
11 vote of all the members elected to each house, Subchapter C, Chapter
12 7925, Special District Local Laws Code, as added by Section 1 of
13 this Act, is amended by adding Section 7925.106 to read as follows:

14 Sec. 7925.106. NO EMINENT DOMAIN POWER. The district may
15 not exercise the power of eminent domain.

16 (b) This section is not intended to be an expression of a
17 legislative interpretation of the requirements of Section 17(c),
18 Article I, Texas Constitution.

19 SECTION 5. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2026 passed the Senate on May 8, 2015, by the following vote: Yeas 29, Nays 1, one present not voting.

Secretary of the Senate

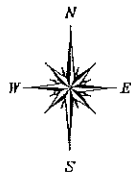
I hereby certify that S.B. No. 2026 passed the House on May 27, 2015, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor



Alamo Title Company
 OF A101-01-C04-A10440220P
 Sept 5, 2014

LAND TITLE SURVEY
 FOR: SHOWRELL HOLDINGS
 STATE HIGHWAY 105
 MONTGOMERY COUNTY, TEXAS 77556

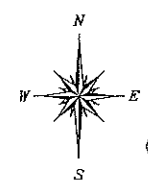
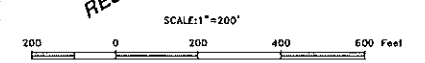
TRACT 1:
 BEING a 104.295 acre tract of land situated in the John Corner Survey, Abstract No. 8 and William W. Sheppard Survey, Abstract No. 480, Montgomery County, Texas, and being portions of a 111.857 acre tract and a 35.893 acre tract described in deed to Joe and Margaret Havens recorded under County Clerk's File No. 9512940 of the Official Public Records of Montgomery County, Texas, said 104.295 acre tract being more particularly described by attached Metes and Bounds.

TRACT 2:
 BEING a 22.551 acre tract of land situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, and being a portion of that certain 35.7767 acre tract described in deed to H and T Partnership recorded under County Clerk's File No. 9413864 of the Official Public Records of Montgomery County, Texas, and being that same tract described in deed to Joe D. Havens recorded under County Clerk's File No. 9901092, said 22.551 acre tract being more particularly described by attached Metes and Bounds.

TRACT 3:
 A non-exclusive easement and right-of-way as set forth and defined in that certain Easement Agreement in Settlement of Litigation dated April 23, 1986, recorded under Montgomery County Clerk's File Nos. 9219821 and 9219822.

LINE TABLE CREEK MEANDERS
 (WESTERLY BOUNDARY LINE)

LINE	DISTANCE	BEARING
L1	71.77'	N 26°08'07" E
L2	28.93'	N 33°11'43" E
L3	18.14'	N 59°21'27" E
L4	43.46'	N 11°10'57" W
L5	48.15'	N 36°37'32" E
L6	29.84'	N 55°42'50" E
L7	42.50'	N 23°53'30" E
L8	25.39'	N 56°06'44" E
L9	47.29'	N 78°34'35" E
L10	35.75'	S 71°55'54" E
L11	34.65'	N 58°59'00" E
L12	41.01'	N 33°34'27" E
L13	68.90'	N 10°35'25" W
L14	42.66'	N 13°53'45" E
L15	18.96'	N 24°16'07" E
L16	58.38'	N 24°16'07" E
L17	60.72'	N 04°43'47" W
L18	59.18'	N 00°25'47" E
L19	64.19'	N 27°52'00" W
L20	44.33'	N 21°55'01" E
L21	62.23'	N 44°12'25" E
L22	55.00'	N 00°08'00" E
L23	38.49'	N 30°17'33" W
L24	72.27'	N 14°51'56" W
L25	22.35'	N 11°26'33" W
L26	44.08'	N 85°29'27" E
L27	28.29'	N 80°22'25" E
L28	78.62'	S 82°25'26" E
L29	33.41'	N 75°27'28" E
L30	109.29'	S 14°25'15" E
L31	103.76'	S 31°22'57" E
L32	65.02'	S 47°02'57" E
L33	169.27'	S 29°07'31" W



I hereby certify that this survey was made on the ground under my supervision and that this drawing correctly represents the facts found of the time of survey.
 November 2014

Michael C. Warren
 Registered Professional Land Surveyor No. 4935

STATE HIGHWAY NO. 105

CLUB DRIVE

HAVENSHIRE HWY/67B MCMR

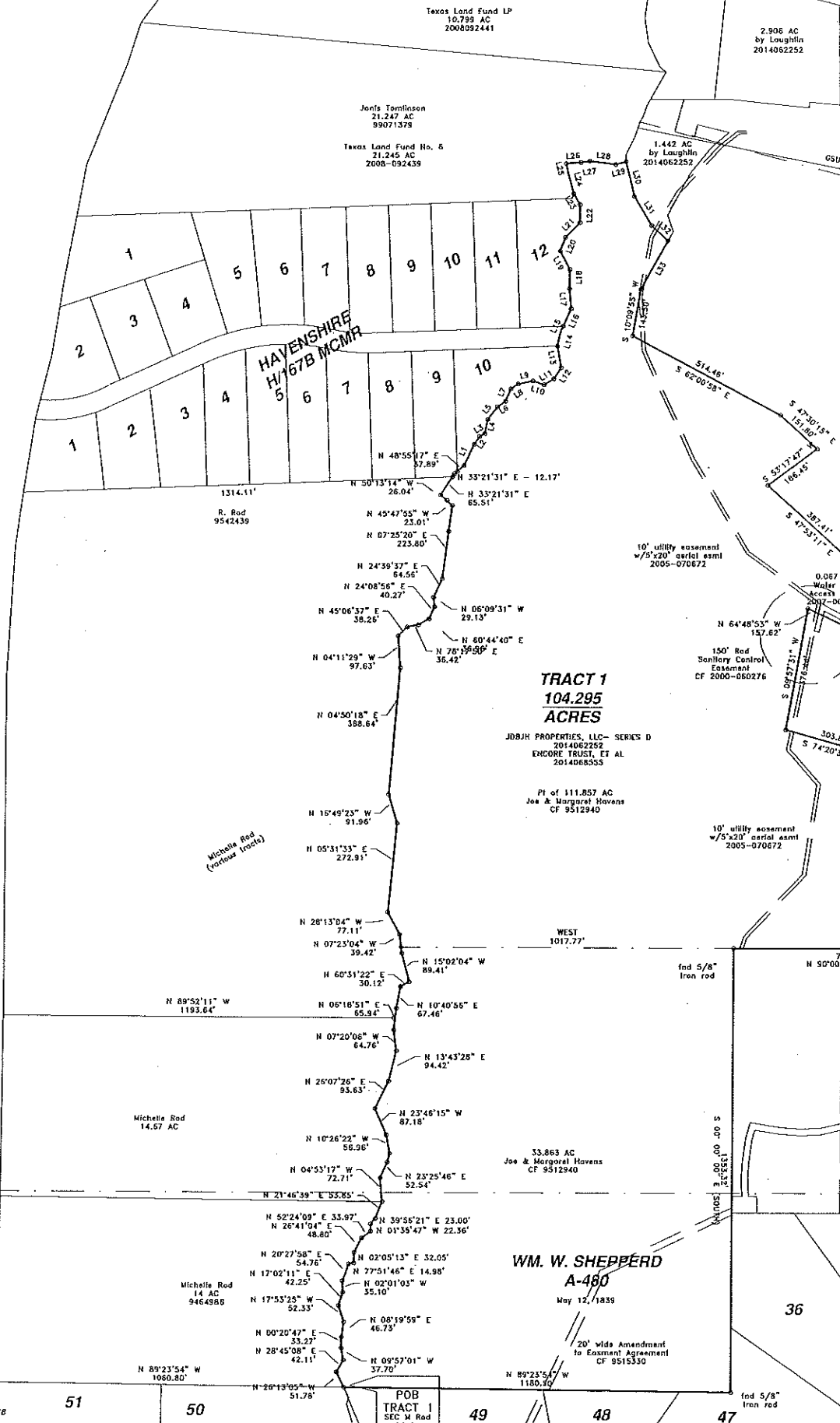
POB TRACT 2
 SBL 24.04 AC
 HWC L 21 88 S1
 ROMAN HILLS
 Ely cor 35.7767 AC
 H&T Partnership

BLOCK 6

ROMAN HILLS

RESERVE 3

HILLTOP RANCH
 0438 MCMR



F.M. 2854







DISCOVERY TRACT MO125

Approx. 132 ac.





FEBRUARY, 2015

VICINITY MAP
PARTIALLY CITY OF CONROE ETJ
PARTIALLY IN MONTGOMERY ETJ
MONTGOMERY I.S.D.

LEGEND

-  DISCOVERY TRACT
-  SCHOOL DISTRICT BOUNDARY
-  CCN WATER
-  CCN SEWER
-  RAILROAD
-  MONTGOMERY COUNTY MAJOR THOROUGHFARE PLAN

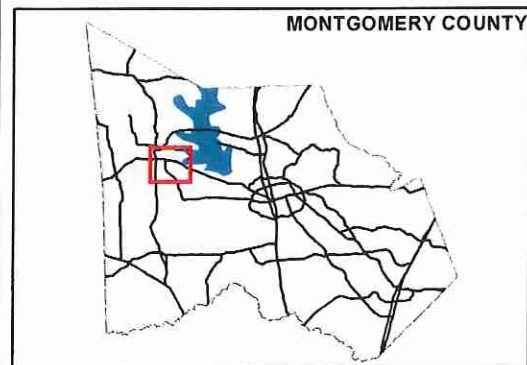
Highway Construction Projects (HGAC)

-  LET- Under Contract
-  TIP- 2008-2011
-  SHORT- 2012-2017
-  LONG- 2018-2035

DATA SOURCE:
MUDs - Texas Commission on Environmental Quality (TCEQ)
CCNS- TCEQ
Highway Construction Projects- Houston-Galveston Area Council (H-GAC)
School Districts-Montgomery County
Major Thoroughfare Plan (MTP)- Montgomery County
Railroads-ESRI



0 1,000 2,000 4,000
Feet

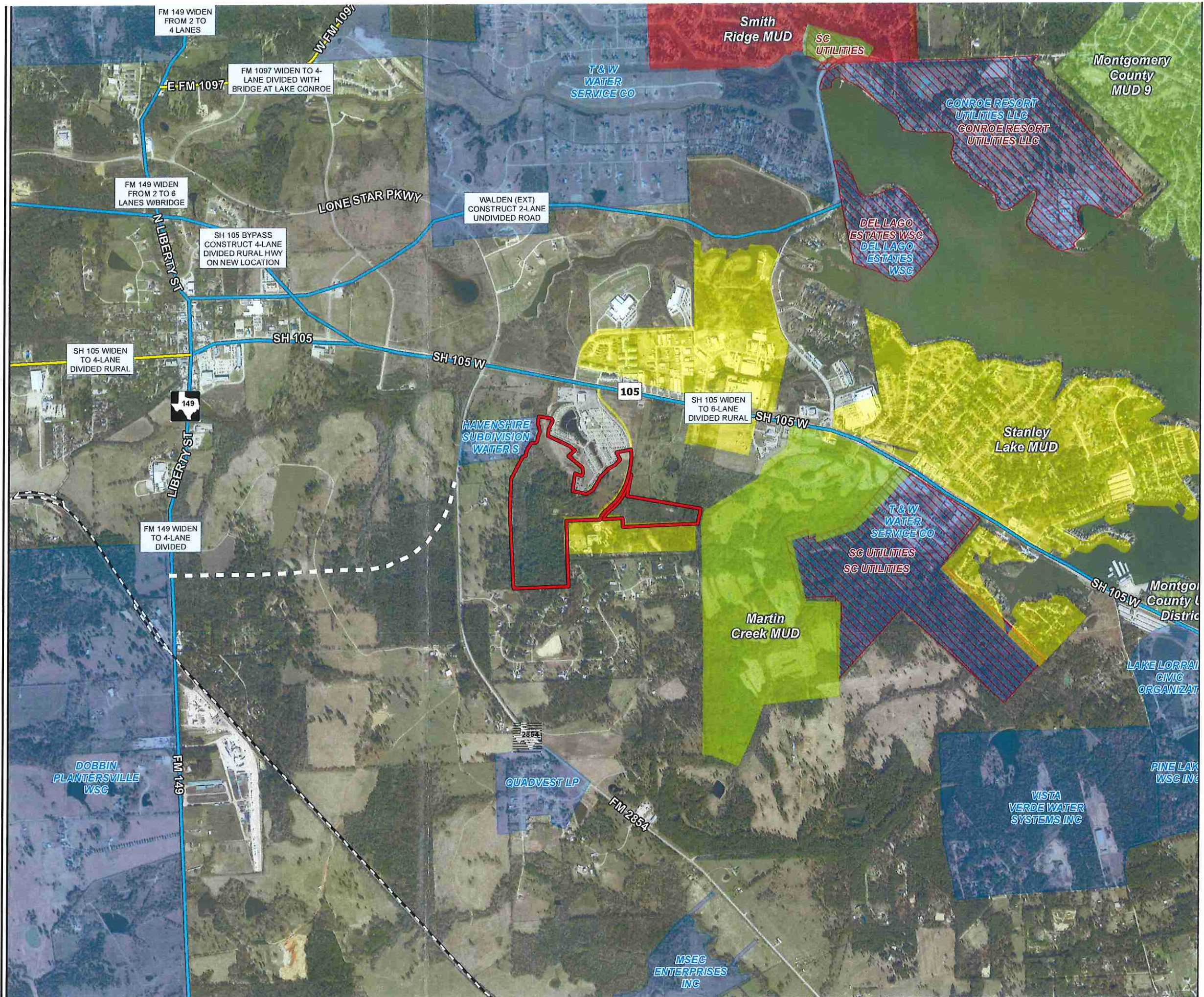


AERIAL PHOTOGRAPHY DATE: MARCH 2012

THIS PRODUCT IS FOR INFORMATIONAL PURPOSES AND MAY NOT HAVE BEEN PREPARED FOR OR BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEYING PURPOSES. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF PROPERTY BOUNDARIES.

LJA Engineering, Inc.

24320...
1/16/2015
1/16/2015



Path: T:\0004\Exhibits\MO125\MO125 vicinity.mxd

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
	Exhibits: Existing animal ordinances, Option "A" ordinance, Option "B, ordinance, Option "B" marked w/ state law references, Notice to the citizens regarding the options, Opinion sheet of public comments
Prepared By: Jack Yates City Administrator	
Date Prepared: November 5, 2018	

Subject

This is to determine the extent of the amendment to the animal ordinances of the City. You are being presented two ordinances.

Description

Currently, Montgomery County Animal Control in conjunction with the city Police Department enforce all animal control regulations that are state law, city ordinances or federal law. D this into its cruelty to animals, dogs at large, vicious dogs and wounded animals.

The Option "A" ordinance, admittedly, an attempt to solve current issues that I understand exist from complaints of neighbors against other neighbors. I know of two issues; one on Caroline Street regarding chickens and coop only neighboring property on College Street and a dog number/noise/odor issue on Worsham Street.

The Option "B" ordinance, is a much more comprehensive ordinance that involves virtually any type of animal that is, or may be, kept in the city and is basically a good ordinance. Option "B" would involve much more management from the city to enforce, as number of animals uncircumcised property is not something that would be enforced at all by Montgomery County Animal

Control. Option "B" would probably need a brief section allowing rodeos, special events allowance – for the Lone Star Cowboy Church operation.

The issues of odor, noise and excrement management already in place and are not affected by your consideration of selecting Option "A" or Option "B"

As for the noisy dogs/animals issue Section 34 – 94 of the City Code now reads:

Sec. 34-94. - Noisy animals and birds.

"The keeping of any animal or bird that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 34-95."

Section 34 – 95 describes the decibel precise way of measuring noise, which according to 34-94 is not required regarding animal sounds.

So all that is necessary to stop noisy dogs/animals would be: (my suggestion) is to either get a witness to the loud barking or to record in some fashion the loud barking, file a written complaint to a city police officer who can work with the complainant so that a charge is filed in Municipal Court and upon conviction the keeper of the dog would be fined for the one offense and would be susceptible to future fines.

An ordinance providing for Option "A" or Option "B" is provided in your packet. Both ordinances are not fully complete but could be added to if you wanted to pass one or the other.

I was asked by the Council, at your last discussion of this topic, to write the general public and get their opinion of the Option "A" and Option "B" approach. As of November 8th _____ calls were received and their comments are on an attached sheet.

Recommendation

Motion to table the issue until Option "A" or Option "B" ordinance are completely prepared – or – To direct the City Administrator or blend certain sections of the Option "A" and Option "B" into one ordinance – or – To table the issue until further discussion/consideration by the Council.

Montgomery City Council
AGENDA REPORT

Approved By		
City Administrator	Jack Yates	Date: November 5, 2018

Citizen Comments on animal ordinance:

While reading over the proposed options for the animal ordinance being reconsidered for our city, I would like to take an opportunity to give an opinion. I believe that Option 1 is the best for our community. I'm sure there are isolated cases that have caused this ordinance to be brought back to the forefront; however, I'm not sure that more regulation and oversight is the answer. When I taught school, it puzzled me that the principal would impose rules on the entire staff instead of just dealing with the one or two cases that were causing the issue. I understand that the city's hands may be tied when it comes to reprimanding folks for lacking common courtesy. However, let's find a solution that doesn't involve putting restrictions on all of the residents. I know I would appreciate my tax dollars going toward other community efforts rather than for a city employee to micro-manage the pet population within the city.

I appreciate the hard work that each of you, the other city employees and the council do to make Montgomery a great place to live.

Good morning, I would like to say that option 2, is a better option in my view, as a long time resident. 6 dogs is really a few too many, if you happen to live next door. Or down the street from a herd of dogs, like on Worsham. We are no longer out in the country. I would also love to see the dangerous dog enforcement also. Thank you have a great day.

Good Morning,

Thought I would take the time to give my opinion on the Animal Ordinance being reconsidered. Let me start by saying it's about Damn Time, something is being considered. I have had more than one documented conversation with Mr. Yates on the subject over the last couple of years which fell on deaf ears and allowed my own issue to fester to a point that I should have thrown mud in the face of the city by contacting the Harris County SPCA to intervene. Truth is I hadn't thought of taking things that far until a recent article in the Conroe Courier highlighted the seizure of animals on property in Montgomery

County where the situation was nearly identical to what my neighbor had going on. I believe he has reduced the number of animals caged on his property since the prospect of proper ordinances has come about, but I don't really know that. I only say this because the smell of Bird Crap in the air has not been as prominent lately, which may have more to do with the amount of rain washing things out than anything else.

The fact is, his mess reduces my property value, I have actually used his place over the last 2 years to keep my property taxes down. His mess and the associated smell does not allow me to use my property in a manner that I am accustomed to. I reference my place as the home with the City Taxes and the Country Smell. **This has been taking place within eyesight of City Hall and with the direct knowledge of our former Mayor who dismissed it as "Country Appeal" and Mr. Yates.** My properties proximity places me on the front line and apparently my desire to spend time outside, more so than my neighbors, means I may be the only source of complaint on this one particular issue ?

Now, all that aside, it appears, now, the Rapidly Expanding City of Montgomery has and is now willing to address the placement of proper animal ordinances. My opinion is that "Option 1" is the quick fix, kick the can down the road to be re-addressed as new residences expand within the city limits to areas formerly considered, The Country side, if you will. As you know, all of the new neighborhoods and apartment complexes going into place are essentially self-governed on animals, thanks to their deed restrictions and HOAs and rules for living in a complex. The old parts of the city, including the Historic District are not, these areas fall under the currently lacking city ordinances. As new neighborhoods slide in along those lines, those neighbors are likely to voice concerns about health and property values if a "limited amendment to the ordinance" is put in place. This "limited amendment to the ordinance" will only tie the cities hands in its ability to handle any situation that might arise as the city continues to grow. Obviously, if the city has nothing better to do with their time, you can pass a limited amendment and continue to bounce back and forth to the matter as new issues arises, constantly amending the ordinance accordingly for each situation. You know damn well that takes time. To be plain, "Option 1" lacks a vision for a rapidly expanding city and smells of good old boy protection vs. laziness to do the right thing.

I have read the more comprehensive "Option 2". This option is on par with every city in our proximity. "Option 2" says the city has a Vision of its Future and is willing to put measures in place to ensure a smooth transition, even if

it's as simple as an Animal Ordinance. I'm certain the city has more pressing measures to deal with than to potentially have to re-visit an Animal Ordinance, so why not take the time now, to put in an option that not only covers the here and now, but the future ? With "Option 2" in place the city can rest on this issue knowing its covered its rear in future events and rest knowing that the ordinance is in line with other cities in our region. We can be the city stuck in the past with our thinking and Ordinances or we can act like the growing city we are and get on board with the reality that expansion is here and unlikely to stop any time soon.

The cost to Administer..... ? Typical tactic of one in favor of doing less would be to make reference about cost to the public without actually backing it up with facts. As I see it True cost is only based on the number of complaints that have to be fielded and enforced. Since enforcement typically falls on the shoulders of Montgomery County Animal Control, nothing will change in the immediate. The city will have to address the need for its own animal control division one day, probably sooner than later given our current rate of expansion. So, I can see where one might cost more down road as "Option 1" really only address immediate complaints and is so lacking in future thought, that it gives the city the opportunity to shrug and say not our problem, while "Option 2" says, this is your city and we got your back.

The "Option 2" animal ordinance is the right step for the City of Montgomery and is the only one that has thought of future events and city expansion in mind.

Please share this with members of City Counsel for discussion at the November 13, 2018 meeting.

I apologize for any grammar and spelling errors, I'm squeezing this opinion piece into a busy work day.

(Note from Jack Yates: The Code Enforcement Officer has been to this location at least three times and is under continued instruction to check on the smell, so it has not been a deaf ear, but the writer is basically correct in that it is difficult to enforce – nothing keeps the writer from filing his own complaint to municipal court to get relief, he could get the Code Enforcement Officer as his witness)



Langley, Carol < clangley@ci.montgomery.tx.us >

Animal ordinance?

Brad Dorsey < bradd@lonestarcowboychurch.org >
To: "Langley, Carol" < clangley@ci.montgomery.tx.us >

Tue, Apr 29, 2014 at 10:35 AM

Good morning Carol:

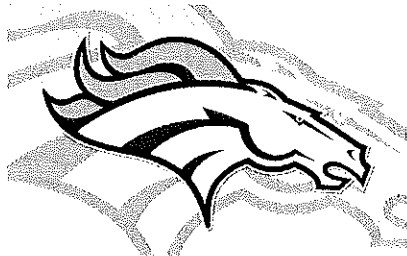
I met with Pastor Randy this morning and he wanted me to relay our following concerns about the possible animal ordinance.

We are very concerned with Sec. 14-13. (i) which states, "In all other zoning districts, no more than one livestock animal per fenced in acre may be kept up to a maximum of three animals, however no hogs or swine may be kept."

Our concern: we have a very expensive arena that was built to house rodeo events as a means of reaching out to our community. The specific wording of that section would prevent us from having enough livestock on the property to run a rodeo event. It would also prevent us from keeping enough steers on the property for future roping events.

Solutions: we trust that we, and other property owners like us, will either be grandfathered in as pre-existing. Or that the specific language of that section will be revised, allowing far more total livestock than 3. We now own right at 60 acres; 3 livestock for 60 acres doesn't seem reasonable.

Please share our concerns with the staff there at the city. And please let us know if we will be grandfathered in or if that specific language will be revised.



Brad Dorsey
Business Administrator
Lone Star Cowboy Church
Montgomery, Texas

[Quoted text hidden]

Chapter 14 - ANIMALS^[1]

P.172

ARTICLE I. - IN GENERAL

Existing Animal
Control Ordinance

Sec. 14-1. - Penalty.

Upon proof of violation of this chapter by any person owning or having control over or having custody of any dog, cat or other animal, such person shall be punished as provided for in section 1-13.

(Code 2002, § 14-1; Ord. No. 1974-1, § 5, 1-19-1974; Ord. No. 1983-2, 5-9-1983)

Sec. 14-2. - Agreements with other agencies for handling of animals.

The mayor is authorized to negotiate with other local government agencies for the handling of animals under the provisions of this chapter. Any contract which is the subject of such negotiations must be approved and its execution authorized by the city council as in the case of other contracts entered into by the city.

(Code 2002, § 14-2; Ord. No. 1974-1, § 3(c), 1-19-1974)

Sec. 14-3. - Rabies vaccination for dogs and cats.

- (a) All dogs and cats in the city over 16 weeks of age must be vaccinated annually for rabies with a vaccine approved by the state. All dogs and cats which are brought into the city and which are 12 weeks of age and older and which have not been so vaccinated shall be vaccinated as required by state law. Any person owning, keeping, harboring or maintaining a dog or cat in the city who fails or refuses to comply with the vaccination requirements set out in this section shall be deemed guilty of an offense.
- (b) An official rabies vaccination certificate issued by a veterinarian that the vaccination was administered as required by this section shall be evidence of such vaccination.

(Code 2002, § 14-31; Ord. No. 1974-1, § 1, 1-19-1974)

State Law reference— Rabies vaccinations, V.T.C.A., Health and Safety Code § 826.021 et seq.

Sec. 14-4. - Animals running at large.

- (a) It shall be unlawful for any person owning or having control over or having custody of any animal to permit or allow such animal to run or be at large upon any public highway, street, alley, court, square, park, sidewalk, or other public grounds or public property within the corporate limits of the city.
- (b) It shall be unlawful for any person owning or having control over or having custody of any

animal to permit or allow such animal to run or be at large upon any unfenced lot, tract, or parcel of land within the city without such animal being penned or leashed.

- (c) It shall be unlawful for any person owning or having in his possession an animal of dangerous or fierce tendencies to allow such animal to be at large. For purposes of this subsection, the term "animal of dangerous or fierce tendencies" shall be defined as one who has previously attacked or bitten a person.

(Code 2002, § 14-32; Ord. No. 1974-1, § 2, 1-19-1974; Ord. No. 1983-2, 5-9-1983)

State Law reference— Dangerous dogs, V.T.C.A., Health and Safety Code § 822.041 et seq.

Secs. 14-5—14-26. - Reserved.

ARTICLE II. - IMPOUNDMENT

Sec. 14-27. - Authority to impound animals running at large; notification of owner.

It shall be the duty of the person employed by the city for that purpose to take up and take charge of all animals found to be running at large as defined in section 14-4 within the city, and to take such animals to a place or person designated by the city for such purpose, there to be impounded and detained for a period of three calendar days.

(Code 2002, § 14-61; Ord. No. 1974-1, § 3(a), (b), 1-19-1974)

State Law reference— Impoundment of dogs and cats, V.T.C.A., Health and Safety Code § 826.033.

Sec. 14-28. - Redemption or disposition of impounded animals; fees.

The person entitled to the possession of any animal taken up and impounded, upon proper application, shall be entitled to have the animal delivered to him at the place of impoundment, provided such animal is not infected or thought to be infected with rabies or other infectious or contagious disease, and upon the payment of any charges and/or fees, when applicable. There shall be an impounding fee as fixed by the county.

(Code 2002, § 14-62; Ord. No. 1974-1, § 4, 1-19-1974)

State Law reference— Animal shelters, V.T.C.A., Health and Safety Code ch. 823.

OPTION

"A"

ORDINANCE _____

AN ORDINANCE REGARDING MAXIMUM NUMBER OF DOGS
AND CATS IN THE CITY LIMITS. THE KEEPING OF DOGS AT LOCATIONS
OTHER THAN OWNERS RESIDENCE AND PROVIDING EXCEPTIONS, AND REGARDING
MAXIMUM NUMBER OF CHICKENS AND REQUIRING SUFFICIENT SHELTER,
AND REGULATING THE KEEPING OF A ROOSTER

WHEREAS, the City Council desires to keep residential property free of nuisances of noise, odor that multiple animals bring on neighboring property, and

WHEREAS, the City Council desires to resolve such nuisances in the least infringing method possible and property owners, and

WHEREAS, the nuisance conditions now present involve dogs and cats, chickens, and roosters, and WHEREAS, limiting the number of dogs, cats, chickens and roosters on a piece of property appeared to be the least infringing on individual rights,

NOW, THEREFORE BE IT ORDAINED by the City Council of the city of Montgomery, Texas:
The City Code of Ordinances of the City be amended by adding the following sections to chapter 14 of the City Code of Ordinances:

Section One- Code Additions

Sec. 14-5. Keeping dogs, cats or other domestic animals

- (a) Maximum number of dogs and cats. It shall be unlawful for any person to own, keep, or harbor more than six (6) dogs or (6) cats over three (3) months of age, or any combination of six dogs and cats anyone address or location within the city limits.
- (b) Keeping dogs a location other than owners residence. All persons residing in the city who own one or more dogs must keep distance dog or dogs at the residential premises permanently occupied and inhabited by said dog owners. It shall be unlawful for said dog owners to keep their dog or dogs at any other location within the city limits. Animals found in a property where then owner does not reside will be considered abandoned subject to impoundment. This section does not apply to the temporary caretaking of another person's dog or dogs on a temporary basis while the owner is vacation or out of town for other reasons.
- (c) Exceptions. Subsection in (a) , (b), and keeping of hogs, swine, potbellied or miniature pigs shall not apply to animal shelters, veterinary establishments, and will hospitals operated by a licensed veterinarian, or commercial animal statements located on property sold for such purposes. Such establishments, however, must meet sanitation records and keep animal securely caged or panned.

Section 14 – 6. Chickens

No person shall keep, feed, raise, or maintain chickens in a residential area within the city except under the following conditions:

- (1) The chicken shall be contained within and have access to sufficient shelter. "Sufficient shelter" shall mean a roof and three solid sides that is capable of protecting the animal from the elements and shall be situated so that there is a buffer area between it and neighboring

property with sufficient access to allow the sufficient shelter to be effectively clean in which sufficient shelter shall be kept clean and not create an unsightly structure.

- (2) The sufficient shelter shall be located on the owner's property and kept 50 feet from neighboring residential property boundaries.
- (3) The maximum number of adult chickens that may be kept on a residential property are lot of one half (1/2) acre or less is six (6).

Section 14 – 7. Roosters

- (a) No person shall keep, feed, raise, or maintain roosters in a residential area within the city and is currently permit by the city.
- (b) A resident may apply for a permit to maintain one (1) rooster on each property for the purpose of breeding only.

Section Two Open meeting provision

Section Three Providing an effective date

Passed and approved this _____ day of _____, 2018.

Mayor Sara Countryman

ATTEST:

City Secretary Susan Hensley

OPTION

"B"

(Motion was made by _____,
seconded by _____, and passed by a vote of
_____ to _____, that the following ordinance be passed.)

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF MONTGOMERY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, BY REPEALING CHAPTER 14 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 14; PROVIDING FOR DEFINITIONS; PROVIDING FOR A LOCAL RABIES CONTROL AUTHORITY; PROVIDING FOR PURPOSES, APPLICABILITY AND EFFECT; PROVIDING FOR A PENALTY; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR INFORMAL POLICIES TO THE EXTENT THE SAME ARE INCONSISTENT WITH OR IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Montgomery, Texas, believes that it would be in the best interest of the public and the citizens of the city of Montgomery that both domestic and wild animals be controlled or prohibited within the city limits; and

WHEREAS, the City Council desires to pass a new animal control ordinance, thereby repealing chapter 14 of the Code of Ordinances of the City of Montgomery, Texas, in its entirety; and

WHEREAS, Section 826.013 of the Texas Health and Safety Code (the "Code") provides that the governing body of a municipality may adopt the provisions of the Rabies Control Act of 1981 (*Texas Health and Safety Code, Chapter 826*); and

WHEREAS, Section 826.015 of the Code provides that a governing body of a municipality may adopt ordinances or rules that establish a local rabies control program in the municipality and set local standards that are compatible and equal to or more stringent than (1) the ordinances or rules adopted by the county in which the municipality is located; and (2) the program established by the chapter and the rules adopted by the Texas Board of Health; and

WHEREAS, Section 826.016 of the Code permits the governing body of a municipality to enter into contractual agreements with public or private entities to carry out the activities required or authorized under Chapter 826 of the Code; and

WHEREAS, Section 826.017 of the Code permits the governing body of a municipality to designate an officer to act as the local rabies control authority as provided in the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

SECTION ONE

The Code of Ordinances of the City of Montgomery, Texas, shall be and is hereby amended by repealing Chapter 14 in its entirety and adopting a new Chapter 14 as follows:

Chapter 14

ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate member of the animal kingdom, domestic or wild, excluding the human species.

Animal Control means Montgomery County Animal Control Department

Astray or Stray means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner.

Cat means any domesticated member of the family felis catus.

Community Cat means any unowned cat. These cats may be feral, unsocialized, or friendly and may either have been born into the wild or are lost or abandoned pet cats.

Director means the City of Montgomery Director of Public Works or authorized designee.

Dog means a domesticated member of the family canidae but shall not include a wolf, jackal, fox, or other wild animal of this family.

Fowl means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other

common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

Livestock means any horse, swine, cattle, sheep, goat, mule, jack, or jenny.

Owner means any owning, keeping, or harboring an animal and any person who permits an animal to remain on or about his premises, who has possession, or has control or the responsibility to control an animal.

Person means any individual, corporation, partnership, trust, association or other legal entity.

Quarantine means strict confinement under restraint by closed cage or paddock or on the premises of the owner in any other manner approved by the Local Rabies Control Authority or designee or at a facility approved by the Local Rabies Control Authority or designee.

Rabies means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal or contact with bodily fluid of a rabid animal and/or including the condition commonly known as rabies.

Reptile means any cold-blooded vertebrate of the class reptilia, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

Restraint, except as otherwise provided, an animal shall be deemed to be restrained when it is:

(a) Confined on the premises of the owner within a fence or enclosure; or Fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or

(b) Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or

(c) On or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out; or

(d) At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.

Running at large means animals wandering or roving at will and unsupervised

Secure enclosure means a fenced or locked area that is capable of confining the animal in question

Sec. 14-2. Local Rabies Control Authority designated; duties.

(a) The Mayor shall designate the Montgomery County Animal Control Department (*Animal Control*), official designated by Montgomery County Commissioner's Court, or the Director or his designee as the Local Rabies Control Authority pursuant to state law.

(b) The duties of the Director and the Local Rabies Control Authority shall include but are not limited to:

- (i) Enforcement of all ordinances and/or rules of the City pertaining to rabies and animal control;
- (ii) Enforcement of the provisions of state law and administrative rules of the Texas Board of Health pertaining to rabies and animal control.
- (iii) Selection and establishment of facilities for impoundment, maintenance, shelter and destruction of stray, diseased, injured, or vicious animals.

(a) The Director or Animal Control may employ such Animal Control Officers or inspectors as are necessary and feasible to carry out the purposes of this chapter.

Nothing in this Ordinance shall be interpreted so to prohibit a service animal as defined in federal law, or an assistance animal defined in State law, that is specially trained or equipped to assist persons with disabilities.

(c)

Sec. 14-3. Citation of person in control; interference or false reports unlawful.

(a) Whenever an animal is found in violation of this chapter and when ownership is known to an Animal Control Officer, a peace officer or other authorized official, such person enforcing this Chapter may elect, in lieu of or in addition to impounding such animal, to issue a citation to the owner, harborer, or other person in control of the animal which shall require the person to appear in the Municipal Court within ten (10) business days to answer a charge of violation of this chapter.

(b) The signature of the owner, harborer or other person in control on a citation shall constitute only a promise to appear at the appointed date and shall not be construed as an admission of guilt.

(c) It is unlawful for any person, upon being issued a citation for violation of this chapter, to fail to provide proof of identification, or provide a false name, address, or

other false information concerning an animal or its ownership to an Animal Control Officer or other enforcing official.

(d) It is unlawful for any person to interfere with, hinder or obstruct an Animal Control Officer or other official engaged in the enforcement of this chapter, including but not limited to the failure to release an animal for impoundment or any manner of interference with such impoundment.

(e) It is unlawful for any person to make a false report or complaint concerning a violation of this chapter to the Director, to any Animal Control Officer or to any other enforcing official.

Sec. 14-4. Authority to impound or destroy certain animals.

- (a) The Director, the Police Chief, or their designee are hereby authorized to:
 - (i) Impound any stray animal found running at large within the city limits or within five thousand (5,000) feet thereof, or any animal being kept in violation of this chapter;
 - (ii) Impound any animal which has attacks, bites, or physically injures human beings, domestic animals, or livestock or which has acted in a vicious manner as described herein;
 - (iii) Destroy, any animal if it is in the act of pursuing or wounding livestock or wounding or killing poultry or attacking humans under circumstances of emergency
 - (iv) Impound for treatment or, in the alternative, humanely destroy an animal that is injured to a degree presenting little or no likelihood of recovery, upon the recommendation of a licensed veterinarian. This provision shall not be construed to include veterinary hospitals or animals under active veterinary care.
 - (v) If an animal running astray is found upon the premises of any person, the owner or occupant thereof shall have the right to confine the animal temporarily in humane fashion pending notification and response by the Animal Control Department or other authority

Sec. 14-5. Reserved

ARTICLE II. ANIMAL DENSITY, CARE AND PROTECTION

Sec. _____ Nuisance

It is unlawful for the owner, custodian, or keeper of any animal to be a nuisance to any neighbor, including but not limited to: noxious odors from the animals or their enclosure, or any animal which soils, defiles, or defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of it, or noise loud, persistent and habitual in nature.

No person shall keep or allow or permit to be kept on any premises occupied by him, or under his charge or control, any animal or fowl in a pen or other enclosure under such conditions that an offensive or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood or City. Any odor which is detectable from a public right of way or adjacent property line is considered to be in violation of this section.

It is a violation to keep any dog, bird or other animal that causes frequent or long-continued noise that disturbs the comfort and repose of any person of ordinary sensibilities in the immediate vicinity. Once a noise violation has been determined by the Director, the violator has two weeks to remedy this violation through training, technology or relocation of the animal(s).

Fines for animal owners found guilty of the above noise and odor nuisances shall be: One hundred dollars (\$100.00) for the first (1st) offense. Two hundred dollars (\$200.00) for the second (2nd) offense. And three hundred dollars (\$300.00) for the third (3rd) offense and additionally a person convicted of a third (3rd) offense shall have his or her right to keep or maintain livestock within City revoked for one (1) year.

Sec ____ Keeping of Dogs

No person may keep more than six dogs over three months of age on a property of less than five acres.

No person may keep a dog outdoors within an enclosure such as a fence, kennel, or other device unless the enclosure contains at least one hundred square feet of unobstructed area per each dog weighing twenty pounds or less and at least two hundred square feet of unobstructed area per each dog weighing more than twenty pounds. The height of such enclosure should be no less than two feet above the tip of the animal's ears if the ears are upright, or otherwise two feet above the animal's head. This restriction shall not apply to government agencies, non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501(c)(3), humane societies or societies for the prevention of cruelty to animals.

No person shall keep, use or maintain a dog outdoors on any premises unless the dog is either provided with full access to an enclosed building or access to a dog house or similar shelter at all times.

No person shall keep, use or maintain any dog on any premises unless the dog has access to clean, fresh water at all times. Clean potable water shall be available to the dog unless restricted for veterinary care.

No person shall keep, use or maintain any dog on any premises unless the dog is provided sufficient food daily to maintain proper body weight and good general health.

It shall be unlawful for any person to tether, fasten, chain tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confined, except in circumstances where all of the following requirements are met:

- a. The tethering shall not be for more time than is necessary for the dog owner or custodian to complete a temporary task that requires the dog to be physically restrained for a reasonable period; and
- b. The dog must be tethered by a non-choke type collar or a body harness to a tether that is at least three times the body length of the dog, measured from the dog's nose to the back of the hindquarters and which tether is free from entanglement; and
- c. The dog must have access to food, water and shelter as described above; and
- d. The dog shall be monitored periodically.

Restraint by a trolley system is permitted under the following conditions:

- a. Only one animal may be tethered to each cable run; and
- b. The device must be attached to a pulley on a cable run or trolley; and
- c. There must be a swivel on at least one end of the tether to minimize tangling of the tether; and
- d. The tether and cable must be of adequate size and strength to effectively restrain the animal. The size and weight must not be excessive as determined by the Director, considering the age, size, and health of the animal; and
- e. The cable run must be at least ten feet in length and at least four feet above the ground; and
- f. The tether must not allow the animal to move beyond the legal boundary of the owner's property; and
- g. The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness; and
- h. The device must be fastened so that the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled; and

- i. The animal must have easy access to adequate shade, shelter, food, and potable water; and
- j. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall be cleaned up regularly, but no less frequently than once per week.

Sec ____ Keeping of Chickens and Rabbits

No person may keep more than 20 grown chickens and 6 grown rabbits or 18 fryer rabbits on a property of less than one acre. Students enrolled in a 4-H Future Farmers of America project may receive a temporary exception to this restriction, provided they are city residents who are members of the immediate household; they have filed with the City Secretary a letter from their 4-H adult leader or the teacher of their Future Farmers of America class, certifying their project; and no neighbor within 50 feet of the animal's pen files a written complaint with the City Secretary. This exception to this chapter shall be available to a student only for the duration of his or her project. All other husbandry requirements of this section must be met.

The animals shall be provided with a covered, predator-proof pen that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners and be at least two square feet per adult animal in size. All enclosures shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath or within the walls of the structure.

No animal pen will be located closer than fifty feet to any residential structure occupied by someone other than the owner of the animals and must be located no closer than ten feet to any adjacent property line.

The animals shall be shut into their pens at night from sunset to sunrise.

The owner, custodian, or keeper of chickens or rabbits shall not keep animals in any location on the property other than in the backyard. For the purposes of this section, "backyard" means the portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the residential structure and extending to the side lot lines.

The area containing the animals shall be adequately fenced to protect and contain the animals and to prevent access to the animals by dogs or other predators.

Stored feed must be kept in rodent and predator proof containers.

No person shall keep, use or maintain any animal outdoors unless the animal is either provided with natural shade or a man-made structure.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

No more than two roosters shall be allowed on any property.

Sec _____ Keeping of Livestock

Cows, horses, sheep, goats and other similar farm animals are permitted only on lots of at least one acre. Recommended stocking densities are as follows:

Animal	Area Recommended for First Animal	Additional Animals
Beef cattle/dairy cows	1.5 acres for first animal	1 acre each
Pigs	1.5 acres for first animal	1 acre each
Sheep, goats, alpaca	1.5 acres for first animal	1 acre each
Llama	1.5 acres for first animal	1 acre each
Horses/equine-type animals	1.5 acres for first animal	1 acre each

The acreage on which such livestock are maintained must be enclosed by a fence of sufficient height, strength, and construction to keep such livestock from escaping from the premises

All livestock kept under this section shall be provided a stable, shed, pen, or other structure of adequate size for the storage, shelter, and safekeeping of such animals. This structure shall be located at least fifty feet from property lines.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Areas on which agricultural operations are conducted or livestock are kept that are annexed into the City shall remain as legal uses pursuant to state law. State law requires that regulations of agricultural operations or livestock in such newly-annexed areas can only be applied if the City Council, by resolution, makes findings that such regulations are necessary to protect the public health.

Sec ____ Keeping of potbellied pigs

No more than two potbellied pigs may be kept as pets, provided:

- (a) Lot size is at least twenty thousand square feet; and
- (b) The animals are regularly housed indoors, and when outdoors are restrained by leash or within a durable fenced enclosure area; and
- (c) Animals over the age of four months are spayed/neutered. Exemption to this requirement will be considered when the Director is presented with evidence authored by a veterinarian stating that this procedure would be detrimental to the health of the animal; and
- (d) Tusks are regularly trimmed so as not to exceed one inch in length outside the outer lip.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

ARTICLE II. PROHIBITED ACTS

Sec. 14-6 Animals running at large

- (a) It is unlawful for any person to allow an animal to run at large, as defined in this ordinance on any public or private street, alley, sidewalk, vacant lot, or property. An animal control officer has the right to impound animals that are destroying public property or endangering the welfare of any person or animal that is lawfully on public or private property. All dogs, livestock, fowl or dangerous wild animals running at large within the city limits or within five thousand feet of such are hereby declared a public nuisance.
- (b) A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the animal control officer to contact the owner.
- (c) Community cat colonies that are actively managed by a property owner are exempt from the provisions of this ordinance prohibiting animals from running at large. To be an eligible community cat colony manager, the property owner must show active work to trap, feed, vaccinate, sterilize, and release members of the colony. It is preferred, but not required, that animals that have been trapped and released will have their left ear clipped as a visual identification of sterilization and vaccination against rabies. Information for each colony cat will include a description of cat (gender, color, and approximate age), date of sterilization,

location of colony, and property owner's name and contact information. In order to qualify for the ordinance exemption, it is the responsibility of the property owner to provide the Director with information about each cat in the colony as it is trapped and sterilized. Animals with appropriate markings and found on property elsewhere will be treated as though they were on the property where their colony is registered.

- (d) It is unlawful for any person to chain, stake-out, graze or herd any animal on any unenclosed premises in such a manner that the animal may go beyond the property line or that is detrimental to the animal's safety or health.
- (e) Any dog not deemed potentially dangerous or on its owner's property may be kept under the immediate physical control of a person capable of restraining the animal or confined through a means of a buried electronic barrier/collar system if the animal is properly trained and the electronic system is functioning properly.

Sec _____ Animal fights

It is unlawful for any person to promote, stage, hold, manage, conduct or attend any game exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

Sec. 14-12. Reserved.

Sec. 14-14. Dangerous wild animals prohibited.

Dangerous wild animal or reptile means one not normally considered domesticated, that is wild by nature, which, because of habit, mode of life, or natural instinct, is incapable of being completely domesticated, and requires the exercise of art, force or skill to keep it in subjection; and is dangerous by nature, capable of inflicting serious injury, death or disease to humans, and is more likely to do so than a domestic animal. In addition to wild animals prohibited by federal or state law, prohibited wild animals shall include, but are not limited to:

Racers, boas, water snakes, pythons, other constrictor snakes, venomous snakes, alligators, caymans, crocodiles, hawks, eagles, vultures, ostriches, rheas, cassowaries, bats, ocelots, margays, tigers, jaguars, leopards, cougars, cheetahs, lynx, bobcats, mountain lions, panthers, wolves, wolf hybrids, dingos, coyotes, fox, jackals, weasels, martins, mink, skunks, badgers, raccoons, bears, kangaroos, opossums, sloths, anteaters, armadillos, elephants, monkeys, chimpanzees, gorillas, porcupines, antelope, deer, bison or camels

Sec. 14-16. Sale of animals.

Diseased animals

(a) It is unlawful for any person to, with knowledge, sell, barter, or otherwise transfer for use, retention, or resale as a pet any animal which has a disease or internal parasite.

(b) It is a defense to prosecution under subpart a. that the seller or transferor provided to the transferee at the time of such sale or transfer a certificate from a licensed veterinarian attesting that the veterinarian had examined the animal within ten (10) days prior to such sale or transfer and found the animal to be free of disease or parasites.

(c) It is unlawful for any person to, with knowledge, make any false statement in the certificate described in the preceding subpart.

Roadside sale of animals

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for any purpose a live animal on a roadside, public right of way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

This section does not apply to:

1. An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber product;
2. A tax exempt, registered 501(c)(3) non-profit organization founded for the purpose of providing humane sanctuary for abandoned or unwanted animals; or
3. County or municipal animal shelter or shelter-certified partner.

Sec. 14-17. Trapping prohibited; impoundment of traps; exceptions.

(a) It is unlawful for any person to set or place any trap designed for trapping animals in any street, alley, park, or other public place within the city limits.

(b) It is unlawful for any person to set or place any steel-jawed or tooth-jawed trap upon private premises within the City.

(c) Any traps mentioned in the preceding subparts, when found within the city limits, are hereby declared to be abandoned property and any peace officer or Animal Control Officer is hereby authorized to impound and process the same as abandoned property in accordance with state law and this Code.

(d) This section shall not apply to any peace officer or Animal Control Officer engaged in the performance of their duties within the city limits or to persons using traps provided by Animal Control or with specific authorization.

Sec. 14-18. Duty to remove dead or decaying animal carcasses.

(a) It is unlawful for any owner, occupant, or other person in control of premises to knowingly suffer, permit or maintain the presence of a dead or decaying animal carcass upon any such premises within the City, whether public or private, for more than six (6) hours.

(b) The presence of dead or decaying animal carcasses in violation of this section are hereby deemed a public nuisance.

(c) Dogs, cats or any other small dead animals shall not be placed in garbage containers nor collected as solid waste.

(d) Proper disposal shall include:

(i) Burial below the natural surface of the ground. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three feet of earth. The location of a burial site shall be in compliance with any applicable set backs for sanitary or public health reasons; or

(ii) Drop off at a location that is approved by the Montgomery County Health Department for disposal of deceased animals; or

(iii) Pick up by Montgomery County Health Department or designated representatives.

Sec. 14-19. Maintenance of mosquito breeding waters unlawful.

(a) The collection or maintenance of standing or flowing water in which mosquitoes breed or are likely to breed is hereby declared to be an illegal public nuisance, unless such collection of water is treated in the manner prescribed by Animal Control, so as to prevent the breeding of mosquitoes.

(b) The methods of treatment of any collection of water for the purpose of preventing the breeding of mosquitoes is subject to approval by Animal Control and may include one or more of the following:

(i) Screening with wire netting of at least sixteen (16) meshes to the inch one way or any other material which will effectively prevent the ingress or egress of mosquitoes;

(ii) Complete emptying every seven (7) days of unscreened containers together with their thorough drying or cleaning;

(iii) Using an approved larvicide;

- (iv) Clearing and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish (with absence of half-grown mosquito larvae to be evidence of compliance);
- (v) Filling or draining to the satisfaction of the Animal Control;
- (vi) Proper disposal of barrels, cans, boxes, tubs, broken or empty bottles or similar articles likely to hold water.

(c) The City or Animal Control shall forward written notice to comply with this section within three (3) days, to the owner, occupant or other person in control of premises describing with particularity the mosquito breeding conditions to be abated and the suggested method to abate them.

ARTICLE III. FIERCE OR DANGEROUS ANIMAL

Sec. 14-20. Regulation of fierce or dangerous animals.

No person who owns or keeps an animal shall allow the animal to engage in fierce or dangerous conduct. If any person witnesses an animal engaging in fierce or dangerous conduct as described herein, a complaint can be filed in Municipal Court against the owner or keeper of the animal. This Article shall not apply to animals that are in the service of law enforcement agencies or guard dogs restrained as provided in Sec. 14-22.

Determination That a Dog is a Dangerous Dog.

A dog may be determined to be a Dangerous Dog under the following procedures:

- i. Incident Report. Any person may report by sworn statement an incident described in Section 14-3 to the Director. Such statement shall include a description of all elements of the act required under Section 14-3, including whether the incident related to actions against a person or actions against livestock, a domestic animal or fowl. Reports of such Incident(s) received by police officers or other law enforcement officials or county representatives shall be forwarded to the Director.
- ii. Investigation. The Director, will investigate any Incident Report received under Section 14-3 by taking sworn statements concerning the Incident from witnesses and gathering any other pertinent information related to the Incident.
- iii. Notice. Written notice will be given to the person filing the Incident Report (when that person provides sufficient

contact information), the Owner of the dog (when the Owner is known and sufficient contact information is available), and other interested parties known to the Director of the time and date of the hearing to review the Incident information.

- iv. Hearing. A hearing will be held before the Director or his/her designated representative (with such person always being a person separate from the persons investigating the Incident) to hear testimony from witnesses and review all information gathered related to the Incident.
- v. Findings. Upon completion of the hearing, the Director (or his designated representative) shall make a determination based upon a preponderance of the evidence as to whether or not the dog meets the requirements to be determined a "Dangerous Dog" and shall issue such determination either at the end of the hearing or within a reasonable time after the hearing. The determination shall be made in writing and shall include the finding that the dog is a Dangerous Dog (with a description of the action which was the basis of the complaint specifying whether the action was against a person or another animal), shall order compliance with the requirements of these Rules regarding Dangerous Dogs (including a copy of those requirements), and shall advise the Owner of the possible results of failure to comply with those requirements.

- vi. Notification of Findings. If the determination is not made at the hearing, the Director will promptly notify the Owner and those requesting such notification at the hearing and providing necessary contact information) of the finding by telephone or email, with written notification to follow (as allowed by available contact information). Written notification will include the elements of the determination described in subsection v above and will also be provided as follow-up to any determination made at the hearing. If the dog is determined to be a Dangerous Dog, the Owner:
- a. Has 15 days in which to appeal the decision to a court of competent jurisdiction; and/or, if there is no appeal
 - b. has 30 days (measured from the date the Owner received notice under Section vi above, or the date a final decision is reached under an appeal, whichever applies) to comply with the requirements of Section _____ and to provide proof of such compliance to the Director; or
 - c. if an appeal is filed, during that appeal, the Owner must either comply with the requirements of this Section _____ for a Dangerous Dog or post sufficient bond, as determined by the Court, or allow the Director to continue to impound the dog and pay all fees and costs related to such impoundment on a weekly basis; or
 - d. shall deliver the dog to Animal Control or a licensed veterinarian for disposition and immediately thereafter provide proof of disposition to the Director.

Requirements for Dangerous Dog Owners Retaining the Dog.

Requirements. The Owner of a Dangerous Dog must either deliver the dog to Animal Control or a licensed veterinarian for disposition or, no later than the 30th day after learning that the person is the Owner of a Dangerous Dog (and on an annual basis for as long as the Owner retains possession of the Dangerous Dog) comply with the following and submit to the Director proof of such compliance where required:

- I. register the dog (and continue registration with current proof of the following) on an annual basis) with the Director as follows:
 - (i) provide proof of compliance with the insurance requirements in Section _____;
 - (ii) provide proof of current rabies vaccination;
 - (iii) provide proof satisfactory to the Director of a Secure Enclosure in which the dog is and will be kept when not on a leash

under the Owner's direct control (or direct control of a person designated or allowed by the Owner). Such proof may include pictures, statements, or other evidence, including an on-site visit by the Director, as determined by the Director. The Secure Enclosure shall be clearly marked as containing a Dangerous Dog;

(iv) pay an annual \$50 fee; and

(vi) within 14 days of moving the dog, provide the Director notice of the new address.

(vii) immediately ensure that the dog is restrained at all times on a leash in the immediate control of a person or in a Secure Enclosure. Failure to restrain the dog as required will subject the dog to immediate seizure and impound by Animal Control.

(viii) obtain liability insurance coverage or show financial responsibility in the following amounts to cover damages resulting from an attack by the dog on any person, livestock, domestic animal or fowl, and provide proof of such to the Director on an annual basis:

(i) for acts against a person \$100,000.00

(ii) for acts against livestock, a domestic animal or fowl \$ 10,000.00

2. comply with all other requirements of the Director contained in the Notification of Findings in which a Dangerous Dog determination has been made or imposed by the Director pursuant to these Rules. Any additional requirements will be reasonably related to the proper enforcement of the applicable provisions of these Rules and provided to the Owner in writing by the Director.
3. notify the Director in writing if the dog dies or if ownership of the dog is transferred to another person within 7 days of such death or transfer of ownership. If ownership is transferred, the written notice shall contain the new Owner's name, address and telephone number. The original Owner must notify the new Owner of the Dangerous Dog status of the dog prior to transferring ownership. The new Owner then becomes responsible for meeting all applicable requirements of these Rules.
4. allow the Director to identify the dog by microchip with the cost for such identification being born by the owner.

A person learns that the person is the Owner of a Dangerous Dog under Section ____. above when:

- a. the Owner knows of an attack described under Section _____;
- b. the Owner receives notice that a court has made such determination related to proceedings under Section _____; or
- c. the Owner is informed by the Director that the dog is a Dangerous Dog under Section _____.

The status of "Dangerous Dog" remains with the dog regardless of ownership, and the requirements of these Rules apply equally to the Owner in possession of the dog when the determination was made and any future Owner.

Failure to Comply.

1. Application.

a. Act Against a Person. Any person may make application by sworn statement to the appropriate court to determine that an Owner knowingly has possession of a Dangerous Dog under Section _____ and has failed to comply with Section _____. A person will be considered to "knowingly have possession of a Dangerous Dog " if that person "learns" that the person has a Dangerous Dog as described under _____.

b. Act Against An Animal. Any person may make application by sworn statement to the Director to determine that an Owner knowingly has possession of a Dangerous Dog under Section _____ and has failed to comply with Section _____. A person will be considered to "knowingly have possession of a Dangerous Dog " if that person "learns" that the person has a Dangerous Dog as described under _____.

2. Hearing.

a. Act Against a Person. On receipt of such application under _____, the Municipal Court shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.

b. Act Against an Animal. On receipt of such application under _____, the Director shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.

3. Decision.

a. Act Against a Person. If the Municipal Court determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against a person, the court shall order Animal Control to seize the dog and shall issue a warrant authorizing the seizure. The Owner may appeal the decision of the court to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.

b. Act Against an Animal. If the Director determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against an animal, Animal Control shall seize the dog. The Owner may appeal the decision of the Director to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.

4. Impound. Upon such court order or decision by the Director under

Subsection ____ above, Animal Control shall seize and impound the dog.

5. Compliance.

a. Appeal. No further action shall be taken regarding the dog (other than the Director continuing to impound the dog) if the Owner files an appeal under _____ until a final decision is issued under such appeal. If the decision of the appeals court is that the dog is not a Dangerous Dog or that the Owner has not failed to comply, the dog shall be immediately released to the Owner. If the appeals court agrees that the dog is a Dangerous Dog and that the Owner has failed to comply with applicable requirements of these Rules, (or if no appeal is filed) subsections "b" and "c" below will apply, with the time periods being measured from the date of such decision of the appeals court rather than the date the dog is seized.

b. Release. The court shall order the dog released to the Owner if the Owner:

(i) before the 11th day after the dog was seized, shows proof of compliance with the applicable requirements; and (ii) pays any cost (including necessary medical costs, as determined by a licensed veterinarian), fee or fines assessed by Montgomery County Health Department and/or the City of Montgomery related to the seizure, acceptance, and impoundment.

c. Destruction.

(i) If the Owner does not fulfill the requirements of Section _____ (i) and (ii) within the 11 day time period, in the event that the attack or acts were directed toward a person, the court shall order Animal Control to humanely destroy the dog.

(ii) If the Owner does not fulfill the requirements of Section _____ (i) and (ii) within the 11 day time period, in the event the attack or acts were directed toward livestock, a domestic animal or fowl, the court may make its own determination as to the action to be taken or submit the matter to the Director for consideration by hearing as set forth in subsection ____ below. The Owner shall pay all costs related to the seizure, acceptance, impoundment and/or destruction of the dog (including necessary medical costs, as determined by a licensed veterinarian).

(iii) If the Owner of the dog is not found by the 15th day after the dog was seized, and the dog is a Dangerous Dog, the court shall order the dog humanely destroyed.

D. Attack by a Dangerous Dog. Subject to the following, Section _____ shall apply to any attack by a Dangerous Dog after such determination has been made:

1. After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Director within 24 hours of the attack or as soon as such attack is known by any person to have occurred.

2. Attack on an Animal. The offense classifications of the statute (as set forth in Section ____ herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered

with the Director. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be surrendered to Animal Control. The Director shall schedule a hearing to be held pursuant to _____ with prior notice of such hearing to the Owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed, Animal Control shall humanely destroy the dog. If the Director finds reason not to destroy the dog, and a second attack occurs, then Animal Control must humanely destroy the dog.

E. Violation.

1. Attack by a Dangerous Dog Against a Person.

a. A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

b. An offense under this section is a Class C misdemeanor, unless the attack causes Serious Bodily Injury or death, in which event the offense is a Class A misdemeanor.

c. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person authorized under the AC Laws to perform such a procedure.

d. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having jurisdiction in the county where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county.

(a) 2. Any person who keeps a Dangerous Dog which was classified as such because of an attack or act upon a person and does not comply with all requirements of these Rules commits an offense which is a Class C misdemeanor, unless it is shown at trial that the defendant has previously been convicted of an offense under this Subsection _____, in which case the offense is a Class B misdemeanor. Defenses to prosecution under this Section _____ are as set forth in Section _____. This Section _____ applies only to a dog determined to be a Dangerous Dog as a result of an attack or acts against a person, and does not apply where the attack or acts were against livestock, a domestic animal _____ or _____ fowl.

(**this dangerous dog language is from Travis County, Section 52. Reference is also made to Chapter 822 when describing the misdemeanor charges – we either need to cut this out or make sure that we have equivalent laws)**

Sec. 14-22. Guard dogs.

Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete

and absolute control. If a guard dog is to be maintained in a building, or adjoining fenced area, of a business after work hours, then the Fire Department and Police Department must be notified. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal; at least one (1) warning sign shall be conspicuously posted.

Secs. 14-23--14-29. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 14-30. Proof of vaccination required.

(a) All dogs and cats within the city limits must be vaccinated against rabies. It is the duty of all persons owning or keeping a dog or cat over the age of three months to have such animals vaccinated against rabies. The initial rabies vaccine shall be given in an amount sufficient to provide immunity from rabies for one year. Subsequent vaccinations, provided proof of prior rabies vaccination is provided, can be administered with a three-year vaccine. A certificate from a licensed veterinarian shall be evidence of vaccine and type. Montgomery County Health Department may require other animals to receive rabies vaccinations. All anti-rabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially-numbered certificate and tag for each such administration.

(b) The minimum fine for violation of the requirement to have dogs and cats vaccinated for rabies annually shall be twenty-five dollars (\$25.00).

(c) The veterinarian administering anti-rabies vaccines to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of the vaccination and the expiration date of the period of immunity.

(d) It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of vaccination upon demand by an animal control officer.

(e) From time to time, public health and safety requirements may result in the three-year vaccination period being modified by the Montgomery County Health Department. The City requirement for rabies shall reflect any such change.

Sec. 14-31. Reserved.

Sec. 14-32. Impoundment, quarantine of animals; redemption by owner.

(a) Pursuant to state law, the Director or designee are authorized to impound and/or quarantine an animal when there is probable cause to believe that a person may have been exposed to rabies.

(b) A quarantined animal with rabies or rabies symptoms shall be confined in the County animal shelter or a veterinary hospital and disposition shall be made in accordance with state law.

(c) In the case of other animals quarantined, the Director or designee shall determine whether to confine the animal in the County shelter, a veterinary hospital, or on the premises of the owner.

(d) Home quarantine on the premises of the owner shall be permissible where:

(i) The owner is a City resident;

(ii) The owner possesses facilities adequate to restrain the animal so as to prevent exposure of persons or other animals;

(iii) Adequate documentation exists that the animal was vaccinated against rabies in the preceding twelve-month period; and

(iv) The animal currently possesses no apparent symptoms of rabies.

(e) It is unlawful for any person to remove an animal from the premises of the owner following issuance of an order for home quarantine.

(f) During confinement, an animal may be inspected at any time by the Director or designee.

(g) The Director or designee shall determine the length of confinement and safety procedures. A licensed veterinarian shall make a determination of whether or not the animal is free of rabies pursuant to state law.

(h) If a licensed veterinarian determines that the animal does not show the clinical signs of rabies, the animal may be reclaimed by the owner upon satisfaction of applicable

SECTION TWO

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction shall judge any provision of this ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION THREE

Any and all ordinances, resolutions, and/or policies of the City of Montgomery, Texas, whether written or otherwise, which are in any manner in conflict with or inconsistent with this ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION FOUR

This ordinance shall become effective and applicable immediately upon its passage and approval as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Montgomery, Texas, on this ____ day of _____, 2018.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

OPTION

"B"

with duplicative

state law

marked in
margin

(Motion was made by _____,
seconded by _____, and passed by a vote of
_____ to _____, that the following ordinance be passed.)

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF MONTGOMERY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, BY REPEALING CHAPTER 14 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 14; PROVIDING FOR DEFINITIONS; PROVIDING FOR A LOCAL RABIES CONTROL AUTHORITY; PROVIDING FOR PURPOSES, APPLICABILITY AND EFFECT; PROVIDING FOR A PENALTY; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR INFORMAL POLICIES TO THE EXTENT THE SAME ARE INCONSISTENT WITH OR IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Montgomery, Texas, believes that it would be in the best interest of the public and the citizens of the city of Montgomery that both domestic and wild animals be controlled or prohibited within the city limits; and

WHEREAS, the City Council desires to pass a new animal control ordinance, thereby repealing chapter 14 of the Code of Ordinances of the City of Montgomery, Texas, in its entirety; and

WHEREAS, Section 826.013 of the Texas Health and Safety Code (the "Code") provides that the governing body of a municipality may adopt the provisions of the Rabies Control Act of 1981 (*Texas Health and Safety Code, Chapter 826*); and

WHEREAS, Section 826.015 of the Code provides that a governing body of a municipality may adopt ordinances or rules that establish a local rabies control program in the municipality and set local standards that are compatible and equal to or more stringent than (1) the ordinances or rules adopted by the county in which the municipality is located; and (2) the program established by the chapter and the rules adopted by the Texas Board of Health; and

WHEREAS, Section 826.016 of the Code permits the governing body of a municipality to enter into contractual agreements with public or private entities to carry out the activities required or authorized under Chapter 826 of the Code; and

WHEREAS, Section 826.017 of the Code permits the governing body of a municipality to designate an officer to act as the local rabies control authority as provided in the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

SECTION ONE

The Code of Ordinances of the City of Montgomery, Texas, shall be and is hereby amended by repealing Chapter 14 in its entirety and adopting a new Chapter 14 as follows:

Chapter 14

ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate member of the animal kingdom, domestic or wild, excluding the human species.

Animal Control means Montgomery County Animal Control Department

Astray or Stray means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner.

Cat means any domesticated member of the family felis catus.

Community Cat means any unowned cat. These cats may be feral, unsocialized, or friendly and may either have been born into the wild or are lost or abandoned pet cats.

Director means the City of Montgomery Director of Public Works or authorized designee.

Dog means a domesticated member of the family canidae but shall not include a wolf, jackal, fox, or other wild animal of this family.

Fowl means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other

state
law

common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

Livestock means any horse, swine, cattle, sheep, goat, mule, jack, or jenny.

Owner means any owning, keeping, or harboring an animal and any person who permits an animal to remain on or about his premises, who has possession, or has control or the responsibility to control an animal.

Person means any individual, corporation, partnership, trust, association or other legal entity.

Quarantine means strict confinement under restraint by closed cage or paddock or on the premises of the owner in any other manner approved by the Local Rabies Control Authority or designee or at a facility approved by the Local Rabies Control Authority or designee.

Rabies means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal or contact with bodily fluid of a rabid animal and/or including the condition commonly known as rabies.

Reptile means any cold-blooded vertebrate of the class reptilia, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

Restraint, except as otherwise provided, an animal shall be deemed to be restrained when it is:

(a) Confined on the premises of the owner within a fence or enclosure; or Fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or

(b) Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or

(c) On or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out; or

(d) At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.

Running at large means animals wandering or roving at will and unsupervised,

State
Law

Secure enclosure means a fenced or locked area that is capable of confining the animal in question

} state law

Sec. 14-2. Local Rabies Control Authority designated; duties.

(a) The Mayor shall designate the Montgomery County Animal Control Department (*Animal Control*), official designated by Montgomery County Commissioner's Court, or the Director or his designee as the Local Rabies Control Authority pursuant to state law.

(b) The duties of the Director and the Local Rabies Control Authority shall include but are not limited to:

- (i) Enforcement of all ordinances and/or rules of the City pertaining to rabies and animal control;
- (ii) Enforcement of the provisions of state law and administrative rules of the Texas Board of Health pertaining to rabies and animal control.
- (iii) Selection and establishment of facilities for impoundment, maintenance, shelter and destruction of stray, diseased, injured, or vicious animals.

} Local option - presently mCAC

(a) The Director or Animal Control may employ such Animal Control Officers or inspectors as are necessary and feasible to carry out the purposes of this chapter.

Nothing in this Ordinance shall be interpreted so to prohibit a service animal as defined in federal law, or an assistance animal defined in State law, that is specially trained or equipped to assist persons with disabilities.

(c)

Sec. 14-3. Citation of person in control; interference or false reports unlawful.

(a) Whenever an animal is found in violation of this chapter and when ownership is known to an Animal Control Officer, a peace officer or other authorized official, such person enforcing this Chapter may elect, in lieu of or in addition to impounding such animal, to issue a citation to the owner, harborer, or other person in control of the animal which shall require the person to appear in the ~~Municipal~~ Court within ten (10) business days to answer a charge of violation of this chapter.

} state law now mCAC applicable Montgomery County Court

(b) The signature of the owner, harborer or other person in control on a citation shall constitute only a promise to appear at the appointed date and shall not be construed as an admission of guilt.

} Local Option

(c) It is unlawful for any person, upon being issued a citation for violation of this chapter, to fail to provide proof of identification, or provide a false name, address, or

other false information concerning an animal or its ownership to an Animal Control Officer or other enforcing official.

(d) It is unlawful for any person to interfere with, hinder or obstruct an Animal Control Officer or other official engaged in the enforcement of this chapter, including but not limited to the failure to release an animal for impoundment or any manner of interference with such impoundment.

(e) It is unlawful for any person to make a false report or complaint concerning a violation of this chapter to the Director, to any Animal Control Officer or to any other enforcing official.

state
Law

Sec. 14-4. Authority to impound or destroy certain animals.

(a) The Director, the Police Chief, or their designee are hereby authorized to:

(i) Impound any stray animal found running at large within the city limits or within five thousand (5,000) feet thereof, or any animal being kept in violation of this chapter;

(ii) Impound any animal which has attacks, bites, or physically injures human beings, domestic animals, or livestock or which has acted in a vicious manner as described herein;

(iii) Destroy, any animal if it is in the act of pursuing or wounding livestock or wounding or killing poultry or attacking humans under circumstances of emergency

(iv) Impound for treatment or, in the alternative, humanely destroy an animal that is injured to a degree presenting little or no likelihood of recovery, upon the recommendation of a licensed veterinarian. This provision shall not be construed to include veterinary hospitals or animals under active veterinary care.

(v) If an animal running astray is found upon the premises of any person, the owner or occupant thereof shall have the right to confine the animal temporarily in humane fashion pending notification and response by the Animal Control Department or other authority

state
Law

Sec. 14-5. Reserved

ARTICLE II. ANIMAL DENSITY, CARE AND PROTECTION

Sec. _____ Nuisance

Local
Option

It is unlawful for the owner, custodian, or keeper of any animal to be a nuisance to any neighbor, including but not limited to: noxious odors from the animals or their enclosure, or any animal which soils, defiles, or defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of it, or noise loud, persistent and habitual in nature.

No person shall keep or allow or permit to be kept on any premises occupied by him, or under his charge or control, any animal or fowl in a pen or other enclosure under such conditions that an offensive or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood or City. Any odor which is detectable from a public right of way or adjacent property line is considered to be in violation of this section.

It is a violation to keep any dog, bird or other animal that causes frequent or long-continued noise that disturbs the comfort and repose of any person of ordinary sensibilities in the immediate vicinity. Once a noise violation has been determined by the Director, the violator has two weeks to remedy this violation through training, technology or relocation of the animal(s).

Fines for animal owners found guilty of the above noise and odor nuisances shall be: One hundred dollars (\$100.00) for the first (1st) offense. Two hundred dollars (\$200.00) for the second (2nd) offense. And three hundred dollars (\$300.00) for the third (3rd) offense and additionally a person convicted of a third (3rd) offense shall have his or her right to keep or maintain livestock within City revoked for one (1) year.

Local
Option

Sec ____ Keeping of Dogs

No person may keep more than six dogs over three months of age on a property of less than five acres.

No person may keep a dog outdoors within an enclosure such as a fence, kennel, or other device unless the enclosure contains at least one hundred square feet of unobstructed area per each dog weighing twenty pounds or less and at least two hundred square feet of unobstructed area per each dog weighing more than twenty pounds. The height of such enclosure should be no less than two feet above the tip of the animal's ears if the ears are upright, or otherwise two feet above the animal's head. This restriction shall not apply to government agencies, non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501(c)(3), humane societies or societies for the prevention of cruelty to animals.

No person shall keep, use or maintain a dog outdoors on any premises unless the dog is either provided with full access to an enclosed building or access to a dog house or similar shelter at all times.

Local
Option

No person shall keep, use or maintain any dog on any premises unless the dog has access to clean, fresh water at all times. Clean potable water shall be available to the dog unless restricted for veterinary care.

No person shall keep, use or maintain any dog on any premises unless the dog is provided sufficient food daily to maintain proper body weight and good general health.

It shall be unlawful for any person to tether, fasten, chain tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confined, except in circumstances where all of the following requirements are met:

- a. The tethering shall not be for more time than is necessary for the dog owner or custodian to complete a temporary task that requires the dog to be physically restrained for a reasonable period; and
- b. The dog must be tethered by a non-choke type collar or a body harness to a tether that is at least three times the body length of the dog, measured from the dog's nose to the back of the hindquarters and which tether is free from entanglement; and
- c. The dog must have access to food, water and shelter as described above; and
- d. The dog shall be monitored periodically.

Restraint by a trolley system is permitted under the following conditions:

- a. Only one animal may be tethered to each cable run; and
- b. The device must be attached to a pulley on a cable run or trolley; and
- c. There must be a swivel on at least one end of the tether to minimize tangling of the tether; and
- d. The tether and cable must be of adequate size and strength to effectively restrain the animal. The size and weight must not be excessive as determined by the Director, considering the age, size, and health of the animal; and
- e. The cable run must be at least ten feet in length and at least four feet above the ground; and
- f. The tether must not allow the animal to move beyond the legal boundary of the owner's property; and
- g. The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness; and
- h. The device must be fastened so that the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled; and

Local
option

- i. The animal must have easy access to adequate shade, shelter, food, and potable water; and
- j. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall be cleaned up regularly, but no less frequently than once per week.

Sec ____ Keeping of Chickens and Rabbits

No person may keep more than 20 grown chickens and 6 grown rabbits or 18 fryer rabbits on a property of less than one acre. Students enrolled in a 4-H Future Farmers of America project may receive a temporary exception to this restriction, provided they are city residents who are members of the immediate household; they have filed with the City Secretary a letter from their 4-H adult leader or the teacher of their Future Farmers of America class, certifying their project; and no neighbor within 50 feet of the animal's pen files a written complaint with the City Secretary. This exception to this chapter shall be available to a student only for the duration of his or her project. All other husbandry requirements of this section must be met.

The animals shall be provided with a covered, predator-proof pen that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners and be at least two square feet per adult animal in size. All enclosures shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath or within the walls of the structure.

No animal pen will be located closer than fifty feet to any residential structure occupied by someone other than the owner of the animals and must be located no closer than ten feet to any adjacent property line.

The animals shall be shut into their pens at night from sunset to sunrise.

The owner, custodian, or keeper of chickens or rabbits shall not keep animals in any location on the property other than in the backyard. For the purposes of this section, "backyard" means the portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the residential structure and extending to the side lot lines.

The area containing the animals shall be adequately fenced to protect and contain the animals and to prevent access to the animals by dogs or other predators.

Stored feed must be kept in rodent and predator proof containers.

No person shall keep, use or maintain any animal outdoors unless the animal is either provided with natural shade or a man-made structure.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

No more than two roosters shall be allowed on any property.

Sec ____ Keeping of Livestock

Cows, horses, sheep, goats and other similar farm animals are permitted only on lots of at least one acre. Recommended stocking densities are as follows:

Animal	Area Recommended for First Animal	Additional Animals
Beef cattle/dairy cows	1.5 acres for first animal	1 acre each
Pigs	1.5 acres for first animal	1 acre each
Sheep, goats, alpaca	1.5 acres for first animal	1 acre each
Llama	1.5 acres for first animal	1 acre each
Horses/equine-type animals	1.5 acres for first animal	1 acre each

The acreage on which such livestock are maintained must be enclosed by a fence of sufficient height, strength, and construction to keep such livestock from escaping from the premises

All livestock kept under this section shall be provided a stable, shed, pen, or other structure of adequate size for the storage, shelter, and safekeeping of such animals. This structure shall be located at least fifty feet from property lines.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Areas on which agricultural operations are conducted or livestock are kept that are annexed into the City shall remain as legal uses pursuant to state law. State law requires that regulations of agricultural operations or livestock in such newly-annexed areas can only be applied if the City Council, by resolution, makes findings that such regulations are necessary to protect the public health.

Local Option

Sec ____ Keeping of potbellied pigs

No more than two potbellied pigs may be kept as pets, provided:

- (a) Lot size is at least twenty thousand square feet; and
- (b) The animals are regularly housed indoors, and when outdoors are restrained by leash or within a durable fenced enclosure area; and
- (c) Animals over the age of four months are spayed/neutered. Exemption to this requirement will be considered when the Director is presented with evidence authored by a veterinarian stating that this procedure would be detrimental to the health of the animal; and
- (d) Tusks are regularly trimmed so as not to exceed one inch in length outside the outer lip.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Local
option

ARTICLE II. PROHIBITED ACTS

Sec. 14-6 Animals running at large

- (a) It is unlawful for any person to allow an animal to run at large, as defined in this ordinance on any public or private street, alley, sidewalk, vacant lot, or property. An animal control officer has the right to impound animals that are destroying public property or endangering the welfare of any person or animal that is lawfully on public or private property. All dogs, livestock, fowl or dangerous wild animals running at large within the city limits or within five thousand feet of such are hereby declared a public nuisance.
- (b) A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the animal control officer to contact the owner.
- (c) Community cat colonies that are actively managed by a property owner are exempt from the provisions of this ordinance prohibiting animals from running at large. To be an eligible community cat colony manager, the property owner must show active work to trap, feed, vaccinate, sterilize, and release members of the colony. It is preferred, but not required, that animals that have been trapped and released will have their left ear clipped as a visual identification of sterilization and vaccination against rabies. Information for each colony cat will include a description of cat (gender, color, and approximate age), date of sterilization,

In present
ordinance

Local
option

In present
process

Local
option

location of colony, and property owner's name and contact information. In order to qualify for the ordinance exemption, it is the responsibility of the property owner to provide the Director with information about each cat in the colony as it is trapped and sterilized. Animals with appropriate markings and found on property elsewhere will be treated as though they were on the property where their colony is registered.

- (d) It is unlawful for any person to chain, stake-out, graze or herd any animal on any unenclosed premises in such a manner that the animal may go beyond the property line or that is detrimental to the animal's safety or health.
- (e) Any dog not deemed potentially dangerous or on its owner's property may be kept under the immediate physical control of a person capable of restraining the animal or confined through a means of a buried electronic barrier/collar system if the animal is properly trained and the electronic system is functioning properly.

Local
Option

Sec _____ Animal fights

It is unlawful for any person to promote, stage, hold, manage, conduct or attend any game exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

State
Law

Sec. 14-12. Reserved.

Sec. 14-14. Dangerous wild animals prohibited.

Dangerous wild animal or reptile means one not normally considered domesticated, that is wild by nature, which, because of habit, mode of life, or natural instinct, is incapable of being completely domesticated, and requires the exercise of art, force or skill to keep it in subjection; and is dangerous by nature, capable of inflicting serious injury, death or disease to humans, and is more likely to do so than a domestic animal. In addition to wild animals prohibited by federal or state law, prohibited wild animals shall include, but are not limited to:

Racers, boas, water snakes, pythons, other constrictor snakes, venomous snakes, alligators, caymans, crocodiles, hawks, eagles, vultures, ostriches, rheas, cassowaries, bats, ocelots, margays, tigers, jaguars, leopards, cougars, cheetahs, lynx, bobcats, mountain lions, panthers, wolves, wolf hybrids, dingos, coyotes, fox, jackals, weasels, martins, mink, skunks, badgers, raccoons, bears, kangaroos, opossums, sloths, anteaters, armadillos, elephants, monkeys, chimpanzees, gorillas, porcupines, antelope, deer, bison or camels

State
Law

Sec. 14-16. Sale of animals.

Diseased animals

(a) It is unlawful for any person to, with knowledge, sell, barter, or otherwise transfer for use, retention, or resale as a pet any animal which has a disease or internal parasite.

(b) It is a defense to prosecution under subpart a. that the seller or transferor provided to the transferee at the time of such sale or transfer a certificate from a licensed veterinarian attesting that the veterinarian had examined the animal within ten (10) days prior to such sale or transfer and found the animal to be free of disease or parasites.

(c) It is unlawful for any person to, with knowledge, make any false statement in the certificate described in the preceding subpart.

State Law

Roadside sale of animals

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for any purpose a live animal on a roadside, public right of way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

This section does not apply to:

1. An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber product;
2. A tax exempt, registered 501(c)(3) non-profit organization founded for the purpose of providing humane sanctuary for abandoned or unwanted animals; or
3. County or municipal animal shelter or shelter-certified partner.

Local Option

Sec. 14-17. Trapping prohibited; impoundment of traps; exceptions.

(a) It is unlawful for any person to set or place any trap designed for trapping animals in any street, alley, park, or other public place within the city limits.

(b) It is unlawful for any person to set or place any steel-jawed or tooth-jawed trap upon private premises within the City.

(c) Any traps mentioned in the preceding subparts, when found within the city limits, are hereby declared to be abandoned property and any peace officer or Animal Control Officer is hereby authorized to impound and process the same as abandoned property in accordance with state law and this Code.

(d) This section shall not apply to any peace officer or Animal Control Officer engaged in the performance of their duties within the city limits or to persons using traps provided by Animal Control or with specific authorization.

State Law

Sec. 14-18. Duty to remove dead or decaying animal carcasses.

(a) It is unlawful for any owner, occupant, or other person in control of premises to knowingly suffer, permit or maintain the presence of a dead or decaying animal carcass upon any such premises within the City, whether public or private, for more than six (6) hours.

(b) The presence of dead or decaying animal carcasses in violation of this section are hereby deemed a public nuisance.

(c) Dogs, cats or any other small dead animals shall not be placed in garbage containers nor collected as solid waste.

(d) Proper disposal shall include:

(i) Burial below the natural surface of the ground. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three feet of earth. The location of a burial site shall be in compliance with any applicable set backs for sanitary or public health reasons; or

(ii) Drop off at a location that is approved by the Montgomery County Health Department for disposal of deceased animals; or

(iii) Pick up by Montgomery County Health Department or designated representatives.

state
Law

Sec. 14-19. Maintenance of mosquito breeding waters unlawful.

(a) The collection or maintenance of standing or flowing water in which mosquitoes breed or are likely to breed is hereby declared to be an illegal public nuisance, unless such collection of water is treated in the manner prescribed by Animal Control, so as to prevent the breeding of mosquitoes.

(b) The methods of treatment of any collection of water for the purpose of preventing the breeding of mosquitoes is subject to approval by Animal Control and may include one or more of the following:

(i) Screening with wire netting of at least sixteen (16) meshes to the inch one way or any other material which will effectively prevent the ingress or egress of mosquitoes;

(ii) Complete emptying every seven (7) days of unscreened containers together with their thorough drying or cleaning;

(iii) Using an approved larvicide;

state
Law

- (iv) Clearing and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish (with absence of half-grown mosquito larvae to be evidence of compliance);
- (v) Filling or draining to the satisfaction of the Animal Control;
- (vi) Proper disposal of barrels, cans, boxes, tubs, broken or empty bottles or similar articles likely to hold water.

state
law

(c) The City or Animal Control shall forward written notice to comply with this section within three (3) days, to the owner, occupant or other person in control of premises describing with particularity the mosquito breeding conditions to be abated and the suggested method to abate them.

ARTICLE III. FIERCE OR DANGEROUS ANIMAL

Sec. 14-20. Regulation of fierce or dangerous animals.

No person who owns or keeps an animal shall allow the animal to engage in fierce or dangerous conduct. If any person witnesses an animal engaging in fierce or dangerous conduct as described herein, a complaint can be filed in Municipal Court against the owner or keeper of the animal. This Article shall not apply to animals that are in the service of law enforcement agencies or guard dogs restrained as provided in Sec. 14-22.

Determination That a Dog is a Dangerous Dog.

A dog may be determined to be a Dangerous Dog under the following procedures:

- i. Incident Report. Any person may report by sworn statement an incident described in Section 14-3 to the Director. Such statement shall include a description of all elements of the act required under Section 14-3, including whether the incident related to actions against a person or actions against livestock, a domestic animal or fowl. Reports of such Incident(s) received by police officers or other law enforcement officials or county representatives shall be forwarded to the Director.
- ii. Investigation. The Director, will investigate any Incident Report received under Section 14-3 by taking sworn statements concerning the Incident from witnesses and gathering any other pertinent information related to the Incident.
- iii. Notice. Written notice will be given to the person filing the Incident Report (when that person provides sufficient

Local
Option

contact information), the Owner of the dog (when the Owner is known and sufficient contact information is available), and other interested parties known to the Director of the time and date of the hearing to review the Incident information.

- iv. Hearing. A hearing will be held before the Director or his/her designated representative (with such person always being a person separate from the persons investigating the Incident) to hear testimony from witnesses and review all information gathered related to the Incident.
- v. Findings. Upon completion of the hearing, the Director (or his designated representative) shall make a determination based upon a preponderance of the evidence as to whether or not the dog meets the requirements to be determined a "Dangerous Dog" and shall issue such determination either at the end of the hearing or within a reasonable time after the hearing. The determination shall be made in writing and shall include the finding that the dog is a Dangerous Dog (with a description of the action which was the basis of the complaint specifying whether the action was against a person or another animal), shall order compliance with the requirements of these Rules regarding Dangerous Dogs (including a copy of those requirements), and shall advise the Owner of the possible results of failure to comply with those requirements.

Local
Option

- vi. Notification of Findings. If the determination is not made at the hearing, the Director will promptly notify the Owner and those requesting such notification at the hearing and providing necessary contact information) of the finding by telephone or email, with written notification to follow (as allowed by available contact information). Written notification will include the elements of the determination described in subsection v above and will also be provided as follow-up to any determination made at the hearing. If the dog is determined to be a Dangerous Dog, the Owner:
 - a. Has 15 days in which to appeal the decision to a court of competent jurisdiction; and/or, if there is no appeal
 - b. has 30 days (measured from the date the Owner received notice under Section vi above, or the date a final decision is reached under an appeal, whichever applies) to comply with the requirements of Section _____ and to provide proof of such compliance to the Director; or
 - c. if an appeal is filed, during that appeal, the Owner must either comply with the requirements of this Section _____ for a Dangerous Dog or post sufficient bond, as determined by the Court, or allow the Director to continue to impound the dog and pay all fees and costs related to such impoundment on a weekly basis; or
 - d. shall deliver the dog to Animal Control or a licensed veterinarian for disposition and immediately thereafter provide proof of disposition to the Director.

Requirements for Dangerous Dog Owners Retaining the Dog.

Requirements. The Owner of a Dangerous Dog must either deliver the dog to Animal Control or a licensed veterinarian for disposition or, no later than the 30th day after learning that the person is the Owner of a Dangerous Dog (and on an annual basis for as long as the Owner retains possession of the Dangerous Dog) comply with the following and submit to the Director proof of such compliance where required:

- 1. register the dog (and continue registration with current proof of the following) on an annual basis) with the Director as follows:
 - (i) provide proof of compliance with the insurance requirements in Section _____;
 - (ii) provide proof of current rabies vaccination;
 - (iii) provide proof satisfactory to the Director of a Secure Enclosure in which the dog is and will be kept when not on a leash

under the Owner's direct control (or direct control of a person designated or allowed by the Owner). Such proof may include pictures, statements, or other evidence, including an on-site visit by the Director, as determined by the Director. The Secure Enclosure shall be clearly marked as containing a Dangerous Dog;

(iv) pay an annual \$50 fee; and

(vi) within 14 days of moving the dog, provide the Director notice of the new address.

(vii) immediately ensure that the dog is restrained at all times on a leash in the immediate control of a person or in a Secure Enclosure. Failure to restrain the dog as required will subject the dog to immediate seizure and impound by Animal Control.

(viii) obtain liability insurance coverage or show financial responsibility in the following amounts to cover damages resulting from an attack by the dog on any person, livestock, domestic animal or fowl, and provide proof of such to the Director on an annual basis:

(i) for acts against a person \$100,000.00

(ii) for acts against livestock, a domestic animal or fowl \$ 10,000.00

2. comply with all other requirements of the Director contained in the Notification of Findings in which a Dangerous Dog determination has been made or imposed by the Director pursuant to these Rules. Any additional requirements will be reasonably related to the proper enforcement of the applicable provisions of these Rules and provided to the Owner in writing by the Director.
3. notify the Director in writing if the dog dies or if ownership of the dog is transferred to another person within 7 days of such death or transfer of ownership. If ownership is transferred, the written notice shall contain the new Owner's name, address and telephone number. The original Owner must notify the new Owner of the Dangerous Dog status of the dog prior to transferring ownership. The new Owner then becomes responsible for meeting all applicable requirements of these Rules.
4. allow the Director to identify the dog by microchip with the cost for such identification being born by the owner.

A person learns that the person is the Owner of a Dangerous Dog under Section ____ above when:

- a. the Owner knows of an attack described under Section _____;
- b. the Owner receives notice that a court has made such determination related to proceedings under Section _____; or
- c. the Owner is informed by the Director that the dog is a Dangerous Dog under Section ____.

The status of "Dangerous Dog" remains with the dog regardless of ownership, and the requirements of these Rules apply equally to the Owner in possession of the dog when the determination was made and any future Owner.

Failure to Comply.

1. Application.

a. Act Against a Person. Any person may make application by sworn statement to the appropriate court to determine that an Owner knowingly has possession of a Dangerous Dog under Section ____ and has failed to comply with Section _____. A person will be considered to "knowingly have possession of a Dangerous Dog " if that person "learns" that the person has a Dangerous Dog as described under _____.

b. Act Against An Animal. Any person may make application by sworn statement to the Director to determine that an Owner knowingly has possession of a Dangerous Dog under Section _____ and has failed to comply with Section _____. A person will be considered to "knowingly have possession of a Dangerous Dog " if that person "learns" that the person has a Dangerous Dog as described under _____.

2. Hearing.

a. Act Against a Person. On receipt of such application under _____, the Municipal Court shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.

b. Act Against an Animal. On receipt of such application under _____, the Director shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.

3. Decision.

a. Act Against a Person. If the Municipal Court determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against a person, the court shall order Animal Control to seize the dog and shall issue a warrant authorizing the seizure. The Owner may appeal the decision of the court to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.

b. Act Against an Animal. If the Director determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against an animal, Animal Control shall seize the dog. The Owner may appeal the decision of the Director to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.

4. Impound. Upon such court order or decision by the Director under

Subsection ____ above, Animal Control shall seize and impound the dog.

5. Compliance.

a. Appeal. No further action shall be taken regarding the dog (other than the Director continuing to impound the dog) if the Owner files an appeal under _____ until a final decision is issued under such appeal. If the decision of the appeals court is that the dog is not a Dangerous Dog or that the Owner has not failed to comply, the dog shall be immediately released to the Owner. If the appeals court agrees that the dog is a Dangerous Dog and that the Owner has failed to comply with applicable requirements of these Rules , (or if no appeal is filed) subsections "b" and "c" below will apply, with the time periods being measured from the date of such decision of the appeals court rather than the date the dog is seized.

b. Release. The court shall order the dog released to the Owner if the Owner:

(i) before the 11th day after the dog was seized, shows proof of compliance with the applicable requirements; and (ii) pays any cost (including necessary medical costs, as determined by a licensed veterinarian), fee or fines assessed by Montgomery County Health Department and/or the City of Montgomery related to the seizure, acceptance, and impoundment.

c. Destruction.

(i) If the Owner does not fulfill the requirements of Section _____ (i) and (ii) within the 11 day time period, in the event that the attack or acts were directed toward a person, the court shall order Animal Control to humanely destroy the dog.

(ii) If the Owner does not fulfill the requirements of Section _____ (i) and (ii) within the 11 day time period, in the event the attack or acts were directed toward livestock, a domestic animal or fowl, the court may make its own determination as to the action to be taken or submit the matter to the Director for consideration by hearing as set forth in subsection ____ below. The Owner shall pay all costs related to the seizure, acceptance, impoundment and/or destruction of the dog (including necessary medical costs, as determined by a licensed veterinarian).

(iii) If the Owner of the dog is not found by the 15th day after the dog was seized, and the dog is a Dangerous Dog, the court shall order the dog humanely destroyed.

D. Attack by a Dangerous Dog. Subject to the following, Section _____ shall apply to any attack by a Dangerous Dog after such determination has been made:

1. After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Director within 24 hours of the attack or as soon as such attack is known by any person to have occurred.

2. Attack on an Animal. The offense classifications of the statute (as set forth in Section ____ herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered

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with the Director. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be surrendered to Animal Control. The Director shall schedule a hearing to be held pursuant to _____ with prior notice of such hearing to the Owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed, Animal Control shall humanely destroy the dog. If the Director finds reason not to destroy the dog, and a second attack occurs, then Animal Control must humanely destroy the dog.

E. Violation.

1. Attack by a Dangerous Dog Against a Person.

a. A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

b. An offense under this section is a Class C misdemeanor, unless the attack causes Serious Bodily Injury or death, in which event the offense is a Class A misdemeanor.

c. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person authorized under the AC Laws to perform such a procedure.

d. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having jurisdiction in the county where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county.

(a) 2. Any person who keeps a Dangerous Dog which was classified as such because of an attack or act upon a person and does not comply with all requirements of these Rules commits an offense which is a Class C misdemeanor, unless it is shown at trial that the defendant has previously been convicted of an offense under this Subsection _____, in which case the offense is a Class B misdemeanor. Defenses to prosecution under this Section _____ are as set forth in Section _____. This Section _____ applies only to a dog determined to be a Dangerous Dog as a result of an attack or acts against a person, and does not apply where the attack or acts were against livestock, a domestic animal _____ or _____ fowl.

(**this dangerous dog language is from Travis County, Section 52. Reference is also made to Chapter 822 when describing the misdemeanor charges – we either need to cut this out or make sure that we have equivalent laws)**

Sec. 14-22. Guard dogs.

Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete

Local
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} Local
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and absolute control. If a guard dog is to be maintained in a building, or adjoining fenced area, of a business after work hours, then the Fire Department and Police Department must be notified. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal; at least one (1) warning sign shall be conspicuously posted.

Local
Option

Secs. 14-23--14-29. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 14-30. Proof of vaccination required.

(a) All dogs and cats within the city limits must be vaccinated against rabies. It is the duty of all persons owning or keeping a dog or cat over the age of three months to have such animals vaccinated against rabies. The initial rabies vaccine shall be given in an amount sufficient to provide immunity from rabies for one year. Subsequent vaccinations, provided proof of prior rabies vaccination is provided, can be administered with a three-year vaccine. A certificate from a licensed veterinarian shall be evidence of vaccine and type. Montgomery County Health Department may require other animals to receive rabies vaccinations. All anti-rabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially-numbered certificate and tag for each such administration.

(b) The minimum fine for violation of the requirement to have dogs and cats vaccinated for rabies annually shall be twenty-five dollars (\$25.00).

(c) The veterinarian administering anti-rabies vaccines to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of the vaccination and the expiration date of the period of immunity.

(d) It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of vaccination upon demand by an animal control officer.

(e) From time to time, public health and safety requirements may result in the three-year vaccination period being modified by the Montgomery County Health Department. The City requirement for rabies shall reflect any such change.

State
Law

Sec. 14-31. Reserved.

Sec. 14-32. Impoundment, quarantine of animals; redemption by owner.

(a) Pursuant to state law, the Director or designee are authorized to impound and/or quarantine an animal when there is probable cause to believe that a person may have been exposed to rabies.

(b) A quarantined animal with rabies or rabies symptoms shall be confined in the County animal shelter or a veterinary hospital and disposition shall be made in accordance with state law.

(c) In the case of other animals quarantined, the Director or designee shall determine whether to confine the animal in the County shelter, a veterinary hospital, or on the premises of the owner.

(d) Home quarantine on the premises of the owner shall be permissible where:

(i) The owner is a City resident;

(ii) The owner possesses facilities adequate to restrain the animal so as to prevent exposure of persons or other animals;

(iii) Adequate documentation exists that the animal was vaccinated against rabies in the preceding twelve-month period; and

(iv) The animal currently possesses no apparent symptoms of rabies.

(e) It is unlawful for any person to remove an animal from the premises of the owner following issuance of an order for home quarantine.

(f) During confinement, an animal may be inspected at any time by the Director or designee.

(g) The Director or designee shall determine the length of confinement and safety procedures. A licensed veterinarian shall make a determination of whether or not the animal is free of rabies pursuant to state law.

(h) If a licensed veterinarian determines that the animal does not show the clinical signs of rabies, the animal may be reclaimed by the owner upon satisfaction of applicable

STATE
LAW

SECTION TWO

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction shall judge any provision of this ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION THREE

Any and all ordinances, resolutions, and/or policies of the City of Montgomery, Texas, whether written or otherwise, which are in any manner in conflict with or inconsistent with this ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION FOUR

This ordinance shall become effective and applicable immediately upon its passage and approval as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Montgomery, Texas, on this _____ day of _____, 2018.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

Animal Ordinance Being Reconsidered

The City of Montgomery City Council asked me to seek your opinion on potential changes to the City's animal ordinance. Currently, animal control within the City limits is limited to Texas state law—requiring rabies vaccinations for dogs and cats, and prohibiting animals from roaming freely outside of an owner's fenced property. Montgomery County Animal Control coordinates and at no charge picks up and houses stray animals and enforces virtually all other animal related state law violations. The City Council is currently considering two options:

Option 1: Adding limitations to the number of dogs and cats (no more than six), and chickens allowed on a single piece of property. The Council realizes that as the City becomes more densely populated that more restrictions regarding animals would likely be required. This limited amendment to the ordinance would address specific issues currently faced within the City while preserving as much individual property owner liberty as possible and to maintain the low cost of administering this slight amendment to the current ordinances.

Option 2: Is more comprehensive, adding animal care standards, more restrictive limitations on the number of specific animals (such as cattle, horses, sheep and pigs) based on property size (1.5 acres for the first animal, 1.0 acres for additional animals) with exemptions for 4H & FFA projects. This option would also stop the roadside sale of animals within the City, add guidelines for the types of allowable restraints/tethering used for dogs, and add dangerous dog enforcement options. This option would require more cost for administering.

The City Council would appreciate your opinion of these options. Discussion, and possible action, regarding the animal ordinance will be held at the City Council meeting on November 13, 2018 at 6:00 PM at City Hall. You can give your opinion in person at the meeting or by email to:

City Secretary Susan Hensley: shensley@ci.montgomery.tx.us

Mayor Sara Countryman: scountryman@ci.montgomery.tx.us

City Administrator Jack Yates: jyates@ci.montgomery.tx.us

You may also contact any individual City Council member directly or by writing a letter to the City c/o Jack Yates at P.O. Box 708, Montgomery, TX 77356.

Jack Yates, City Administrator

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Bids received on demolishing Building at FM149/SH105
Date Prepared: November 5, 2018	

Subject

This is to authorize the City Administrator to expend an additional \$7,000 for acquisition, closing cost, removal of asbestos and demolition of building and associated closing costs for property acquisition at the Southeast corner of FM 149 and SH 105.

Description

The estimate for acquisition, closing costs and demolition of the building and associated closing cost was \$104,543. Because asbestos was found in the building the actual cost of acquisition, closing cost and demolition of the building and associated closing cost will be \$110,928. An increase of \$6,385 (\$7,000 just to be safe) is needed solely due to the finding of asbestos in the building.

Because of the Asbestos Laws the requirement of a permitted asbestos removal contractor and disposal costs are not optional – this is a required expense.

This will not require a General Fund Budget amendment – I simply wanted to keep you totally informed on the net cost of acquiring the property.

Recommendation

Motion to authorize the City Administrator up to \$7,000 additional expense for purchase and demolition of the property at FM 149/SH105

Approved By

City Administrator	Jack Yates	Date: November 5, 2018
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**Asbestos Abatement and Demolition of Auction Building at
21049 Eva St. Montgomery, TX 77356**

Quotes are for full abatement and demo

Company Name	Price
Sitek Omni	\$24,400.00
Arc Abatement	\$32,500.00
Arrow Services	\$29,750.00
Cherry Demolition	\$25,000.00

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Annexation Ordinance <i>SERVICE PLAN</i>
Date Prepared: November 5, 2018	

Subject

This is the final action to annex the property into the City.

Description

This is to take the final action regarding annexation of this piece of property. There were two public hearings, at which no one spoke in opposition to the annexation.

As a reminder, the property is located approximately directly south of the NAPA auto parts store on SH 105.

Recommendation

Motion to approve annexing of the 1.75 acres as submitted in the ordinance as presented.

Approved By

City Administrator	Jack Yates	Date: November 5, 2018
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Motion made by _____ and seconded by _____ approving the following Ordinance:

ORDINANCE NO. 2018- _____

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY OF 1.758 ACRES OF LAND, MORE OR LESS, IN THE BENJAMIN RIGSBY SURVEY, ABSTRACT 31 AND THE ZACK LANDRUM SURVEY, ABSTRACT 22, TO THE CITY OF MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE

WHEREAS, Section 43.028 of the Texas Local Government Code authorizes the annexation by the City of Montgomery of a sparsely occupied area which has been petitioned by the owners of the annexation, subject to the laws of this State; and

WHEREAS, the City has granted a Petition Requesting Annexation of a contiguous tract of land of 1.758 acres owned by AL CADE and wife DEBBIE CADE, containing 0.22 acres in the Benjamin Rigsby Survey, Abstract No. 31 and 1.538 acres in the Zack Landrum Survey, Abstract No. 22, which tract is contiguous to the city limits and within the extraterritorial jurisdiction of the City of Montgomery, described by metes and bounds hereto in the Exhibit "A"; and

WHEREAS, the City Council has conducted two public hearings on October 9, 2018, 2018 and October 23, 2018, 2018 to receive the comments of its citizens on the proposed annexation, and there have been no objections to the proposed annexation; and

WHEREAS, the annexation procedures prescribed by the Texas Local Government Code and the laws of this State have been duly followed with respect to the following described territory, to wit:

Being a contiguous tract of land of 1.758 acres, containing 0.22 acres in the Benjamin Rigsby Survey, Abstract No. 31 and 1.538 acres in the Zack Landrum Survey, Abstract No. 22, which tract is contiguous to the city limits and within the extraterritorial jurisdiction of the City of Montgomery, described by metes and bounds in the attached Exhibit "A"; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

1. **PROPERTY ANNEXED:** That the heretofore described property in Exhibit "A" is hereby annexed to the City of Montgomery, Montgomery County, Texas, and that the boundary limits of the City of Montgomery, be and the same be hereby extended to include the above described territory within the city limits of the City of Montgomery and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Montgomery and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.
2. **ANNEXATION SERVICE PLAN:** An Annexation Service Plan for the area is hereby adopted and attached as Exhibit "B".
3. **SEVERABILITY CLAUSE:** The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.
4. **TEXAS OPEN MEETINGS ACT:** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, of the Texas Government Code.
5. **FILING ORDINANCE:** The City Secretary is hereby directed to file a certified copy of this Ordinance with the County Clerk of Montgomery County, Texas, the Montgomery County Central Appraisal District, the Texas Secretary of State, and the Office of Texas State Comptroller.
6. **EFFECTIVE DATE:** This Ordinance shall be effective upon its passage.

PASSED AND APPROVED by an affirmative vote of the members of the City Council, on this the _____ day of October 2018.

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

Exhibit A

Recording Number:
09-171896 MP
Date:

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED

Date: February 6, 2018

Grantor: ROBERT G. ODEN, Individually and as Independent Administrator of the Estate of BRUCE CARROLL, Decensed, as provided in the Amended Decree Confirming Sale of Real Property attached

Grantor's Mailing Address:

19910 HIGHWAY 30
BEDIAS, TEXAS 77876

Grantee: AL CADE and DEBBIE CADE, a married couple

Grantee's Mailing Address:

16818 RABON CHAPEL ROAD
MONTGOMERY, TEXAS 77316

Consideration:

Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

BEING a tract of land containing 1.758 acres comprised of 0.22 acres in the BENJAMIN RIGSBY SURVEY, A-31, and 1.538 acres in the ZACK LANDRUM SURVEY, A-22, both in Montgomery County, Texas. Said 1.758 acres being out of and a part of a 6.75 acre tract conveyed by deed from Mary A. Hooker to Hy. C. Furlow and recorded in Vol. 38, Page 217 of the Deed Records of Montgomery County, Texas, and also being out of and a part of a 0.99 acre tract conveyed by deed dated November 17, 1928 from Mrs. W. H. Bailey to H. C. Furlow and recorded in Volume 120, Page 202, of the Deed Records of Montgomery County, Texas.

STARTING at a fence corner at the intersection of the South right-of-way line of State Highway No. 105, having a width of 120 feet, with the East right-of-way line of the Old Dobbins Road, having a width of 50 feet. Said fence corner marking the Northwest corner of a 2 acre, more or less, tract conveyed by deed dated January 1, 1949, from H. C. Furlow to Rock Rabon et ux and recorded in Volume 290, Page 492 of the Deed Records of Montgomery County, Texas;

THENCE: S 83 deg. 31' E along the South right-of-way line of said Highway No. 105, a distance of 338.2 feet to a 1" G.I.P. for the Place of Beginning of the tract herein described;

THENCE: Continuing S 83 deg. 31' E along said right-of-way line a now distance of 210 feet to a 1" G.I.P.;

THENCE: S 6 deg. 29' W 323.92 feet to a 1" G.I.P. set on the Northwest edge of old abandoned road;

EXHIBIT "B"

ANNEXATION SERVICE PLAN
CITY OF MONTGOMERY, TEXAS

TERRITORY

This Service Plan is applicable to the territory which is described in Exhibits A attached to this document, which is being annexed by the City of Montgomery, Texas.

INTENT

It is the intent of the City of Montgomery that this Service Plan shall provide for the delivery of full available municipal services to the annexed areas in accordance with State law. The failure of this plan to describe any particular service shall not be deemed to be an attempt to omit the provision of such services from the annexed areas. The delivery of municipal services may be accomplished through any means permitted by law.

EFFECTIVE TERM

This Service Plan shall be in effect for a ten-year period commencing on the effective date of this annexation.

AMENDMENT OR RENEWAL

This Service Plan may be amended from time to time as provided by Texas Local Government Code, Section 43.056 (e), (j), and (k). Renewal of the Service Plan shall be at the sole option of the City Council.

FIRE

Existing Services: Fire suppression and protection service is currently provided in the annexed areas by the Montgomery County Emergency Services District No. 2.

Services to be provided: The City of Montgomery, Texas does not provide fire suppression services. Fire suppression will continue to be available to the area upon annexation from the Montgomery County Emergency Services District No. 2.

POLICE

Existing Services: Currently, the area to be annexed is under the jurisdiction of the Montgomery County Sheriff's Department.

Services to be provided: Upon annexation, the City of Montgomery Police Department will extend regular and routine patrols to the area. It is anticipated that the implementation of police

patrol activities can be effectively accommodated within the current budget and staff appropriation.

BUILDING INSPECTION

Existing Services: None

Services to be provided: The City will provide code enforcement services upon annexation. This includes issuing building, electrical and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulates building construction within the City of Montgomery.

PLANNING AND ZONING

Existing Services: None

Services to be provided: The Planning and Zoning Commission's responsibility for regulating development and land use through the administration of the City of Montgomery Zoning Ordinance will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the requirements of the City of Montgomery's Subdivision Ordinance. These services can be provided within the City's current budget.

LIBRARY

Existing Services: Currently the area to be annexed is served by the Montgomery County Memorial Library System and its Charles B. Stewart West Branch Library.

Services to be provided: The City of Montgomery does not provide Library services, but the Montgomery County Memorial Library System will continue to be available to the annexed area.

STREET MAINTENANCE

Existing Services: Montgomery County and State of Texas road maintenance

Services to be provided: Maintenance of public streets and ditches in the annexed area will be provided by the City to the extent public right-of-ways are not maintained by the State of Texas and Montgomery County. Street maintenance is subject to all applicable City ordinances, including the City's Subdivision Ordinance. This service can be provided within the current budget appropriation.

STORM WATER MANAGEMENT

Existing Services: None

Services to be provided: In accordance with applicable City ordinances, developers will provide storm water drainage at their own expense and will be inspected by the City engineer at time of

completion. The City, upon acceptance, will then maintain the drainage upon approval, subject to compliance with all City ordinances.

STREET LIGHTING

Existing Services: None

Services to be provided: The City of Montgomery will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy.

WATER SERVICE

Existing Services: None

Services to be provided: Water service to the area will be provided in accordance with the applicable City of Montgomery codes and departmental policies, and any applicable Development Agreement. Privately owned and operated water wells are not authorized in the City. By City ordinance, all buildings in the City must be connected to City water and sewer. When property develops in the area, water service shall be provided in accordance with extension ordinances at the in-city rates. Extension of service shall comply with all City codes and ordinances.

SANITARY SEWER SERVICE

Existing Services: None

Services to be provided: Sanitary sewer service to the area of proposed annexation will be provided in accordance with applicable codes and departmental policies, and any applicable Development Agreement. When property develops in the areas, sanitary sewer service shall be provided in accordance with present extension ordinances at the in-city rates. Extension of service shall comply with City codes and ordinances.

SOLID WASTE SERVICE

Existing Services: None

Services to be provided: Waste Management, Inc., a solid waste collection company, currently provides residential solid waste collection services under an exclusive contract with the City. The City invoices the City customer for the monthly garbage collection charge with its water and sewer charges. Residential service shall be available to the area to be annexed in compliance with existing City policies. Businesses may use the Waste Management residential trash carts if they wish. Commercial dumpster service will be provided under a separate contract between each business and the contractor selected by each business.

NATURAL GAS UTILITY SERVICE

Existing Services: None

Services to be provided: The City of Montgomery does not provide natural gas utility service. LDC Natural Gas Company, a public natural gas utility company, provides natural gas service, which is presently not available to all parts of the City.

EMERGENCY MEDICAL SERVICE

Existing: Currently the area to be annexed is served by the Montgomery County Hospital District's Emergency Medical Service's emergency and non-emergency ambulance transport service.

Services to be provided: The City of Montgomery, Texas does not provide first responder or emergency services. Emergency medical services will continue to be available to the area upon annexation from the Montgomery County Hospital District's Emergency Medical Service (EMS) ambulances.

HEALTH CODE ENFORCEMENT SERVICE

Existing: Currently the area to be annexed is served by Montgomery County Environmental Health Service, a department of Montgomery County.

Services to be provided: The City of Montgomery does not provide health code enforcement services. These services will continue to be provided by Montgomery County Environmental Health Service.

PARKS, PLAYGROUNDS AND SWIMMING POOLS

Existing: None

Services to be provided: The City of Montgomery maintains the Cedar Brake Park, Homecoming Park, Memory Park and Fernland Historical Park. The City does not own or operate a public swimming pool or other playgrounds. Public school playgrounds will remain the responsibility of the Montgomery Independent School District. Private recreational facilities, open spaces and swimming pools are not affected by annexation.

MISCELLANEOUS

All other applicable municipal services will be provided to the area in accordance with the City of Montgomery's ordinances and policies governing extension of municipal services to newly annexed areas.

Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of request for city ordinance speed zone change, Speed zone ordinance provided by TxDOT, TxDOT speed zone change maps, A city staff provided map showing the proposed speed zone changes
Date Prepared: November 5, 2018	

Subject

This is to consider approval of an ordinance regarding three speed zone changes in city limits all on SH 105.

Description

As explained in the cover letter from TxDOT they have completed a speed zone study on SH 105 and are recommending three changes:

- 1) Reduce the speed from five mile-per-hour to 45 mile-per-hour between the eastern city limits and the bridge over Lake Creek on 105.
- 2) Reduce the speed from 45 to 35 mile-per-hour from immediately in front of the cores lumber to the middle of A&A landscaping property on 105.
- 3) Reduce speed from 55 to 45 and the school zone from the west city limits to Old Dobbin/Plantersville Road stoplight intersection. Also in the same area a reduction in the school zone from 35 mile-per-hour to 30 mile-per-hour (when flashing).

These are all areas that have been discussed within the city staff and Police Department in the recent past. The Police Department recommends the approval of the speed zone changes.

The new speed limit signing and installation cost will be borne by TxDOT.

Montgomery City Council
AGENDA REPORT

As part of this review I asked Lieut. Belmares if he had any local Street speed zone changes to recommend he said he did not

Recommendation

Motion to approve the ordinance as presented

Approved By

City Administrator

Jack Yates

Date: November 5, 2018



P.O. BOX 1386 | HOUSTON, TEXAS 77251-1386 | (713) 802-5000 | WWW.TXDOT.GOV

October 4, 2018

The Honorable Sara Countryman
Mayor
City of Montgomery
P.O. Box 708
Montgomery, Texas 77356-0708


RE: Request for City Ordinance Speed Zone – SH 105 – Montgomery County

Dear Mayor Sara Countryman:

Our office has completed a Speed Zone Study along SH 105 within the City of Montgomery. Attached you will find three (3) Speed Zone Strip Maps numbered 5607 B through 5608 A and a prepared Speed Zone Ordinance suggested by the Texas League of Municipalities containing the recommended zone along SH 105. If you concur with the recommended zone please furnish this office with a copy of your executed ordinance.

Should you have questions please contact Mr. Gaurang Pandit, Transportation Engineer Supervisor at (713) 802-5856 or Mr. Rogelio Rubico, at (713) 802-5182.

Sincerely,



Ugonna U. Ughanze, P.E.
Director of Transportation Operations
Houston District

Attachments

cc: Susan Hensley – City of Montgomery
Gaurang S. Pandit, P.E.
Rogelio R. Rubico, P.E.

OUR VALUES: *People • Accountability • Trust • Honesty*

OUR MISSION: *Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.*

An Equal Opportunity Employer

SPEED ZONE ORDINANCE # _____

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF § 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.

WHEREAS, § 545.356, Vernon's Texas Civil Statutes, provides that whenever the governing body of the City shall determine upon the basis of an engineering and traffic investigation that any prima facie speed therein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a street or highway within the City, taking into consideration the width and condition of the pavement and other circumstances on such portion of said street or highway, as well as the usual traffic thereon, said governing body may determine and declare a reasonable and safe prima facie speed limit thereat or thereon by the passage of an Ordinance, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:

Section 1. Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of § 545.356, Texas Transportation Code, the following prima facie speed limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

Along **SH 105** from the west city limits the City of Montgomery to 485 feet west of Old Plantersville Road, a distance of approximately 1.360 mile, the speed limit shall be 45 MPH.

Along **SH 105** from 485 feet west of Old Plantersville Road, to 2165 feet east of the centerline of Prairie Street, a distance of approximately 1.011 mile, the speed limit shall be 35 MPH.

Along **SH 105** from 2165 feet east of the centerline of Prairie Street, to the east city limits of the City of Montgomery, a distance of approximately 0.884 mile, the speed limit shall be 45 MPH.

Along **SH 105** from the west city limits of the City of Montgomery to 170 feet west of the centerline of MC Washington Street, a distance of approximately 0.616 mile, the speed limit shall be 30 MPH when flashing.

Section 2. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Two Hundred Dollars (\$200).

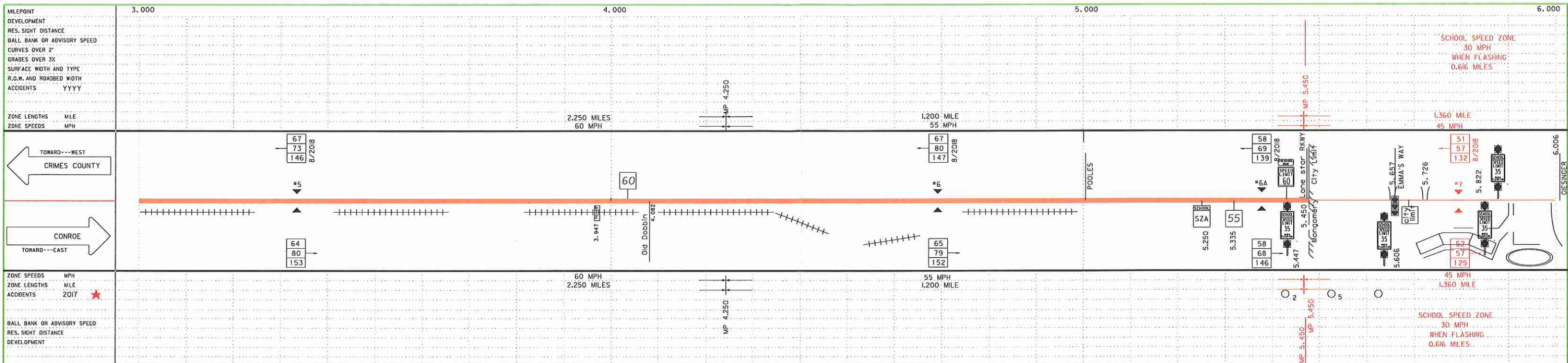
PASSED AND APPROVED THIS _____ day of _____, 2018

ATTEST:

APPROVED

City Secretary

Mayor

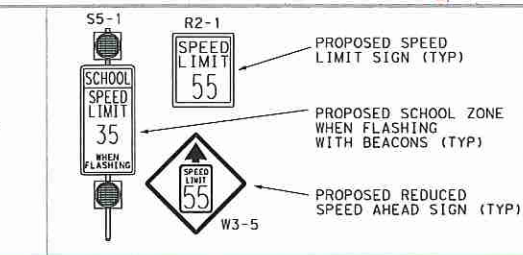


DISTRICT	HOUSTON	COUNTY	MONTGOMERY	MINUTE NO.	DATE	/ /
HIGHWAY	SH 105	CITY	RURAL	REPLACES	DATE	/ /
DATE OF SURVEY	8/2018	SCALE	5" = 1 MILE	REPLACED BY	DATE	/ /
				CANCELED BY	DATE	/ /

LIMITS OF ZONE			
SECTION	STA. OR M.P.	CONT. & SECT.	PROJECT
SECTION ONE	0.000	0338-02	
SECTION TWO	7.499	0338-02	
SECTION THREE			
SECTION FOUR			

68	85 PERCENTILE SPEED
74	TOP SPEED MEASURED
85	NUMBER OF CARS CHECKED
65	TRIAL RUN CONDUCTED

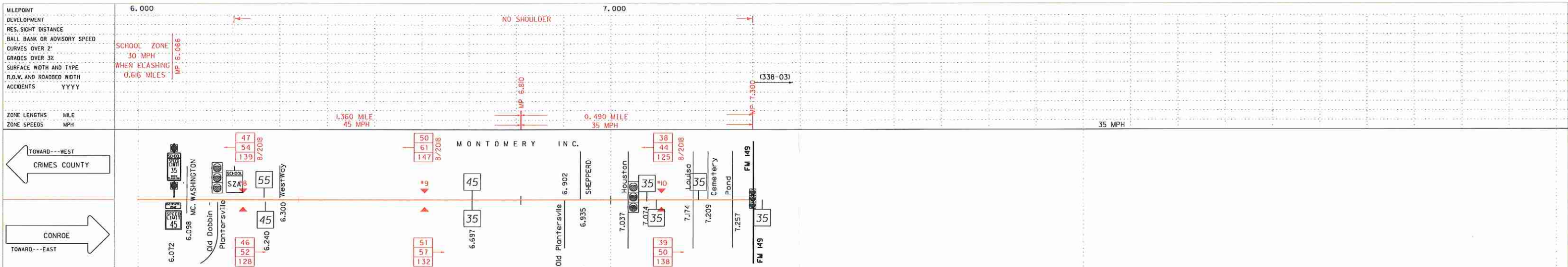
- - FATAL ACCIDENT
- - PERSONAL INJURY ACCIDENT
- ⊖ - PROPERTY DAMAGE ACCIDENT
- - SECTION ZONED BY COMMISSION MINUTE ORDER
- Ⓢ - EXISTING SPEED LIMIT SIGN
- Ⓢ - SECTION ZONED BY CITY ORDINANCE
- Ⓢ - SPEED CHECK STATION
- ★ - EXCEEDED STATEWIDE AVERAGE ACCIDENT
- Ⓢ - EXISTING SIGNAL
- Ⓢ - EXISTING FLASHING BECON
- Ⓢ - EXISTING POLE
- Ⓢ - PROPOSED SIGN
- PC - POINT OF CURVE
- PT - POINT OF TANGENT



TEXAS DEPARTMENT OF TRANSPORTATION

SPEED ZONE

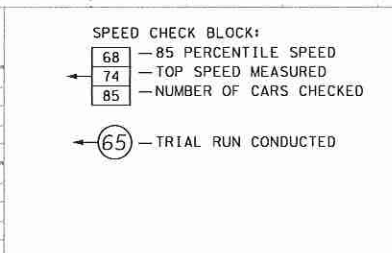
STRIP MAP 5607 B



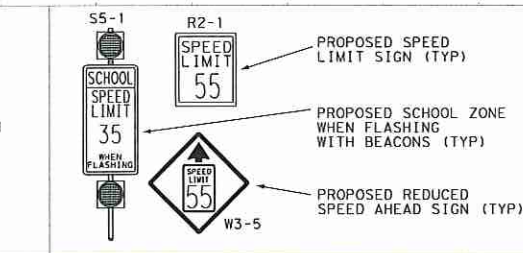
DISTRICT	HOUSTON	COUNTY	MONTGOMERY	MINUTE NO.	DATE
HIGHWAY	SH 105	CITY	RURAL	REPLACES	DATE
DATE OF SURVEY	8/2018	SCALE	5" = 1 MILE	REPLACED BY	DATE
				CANCELED BY	DATE

LIMITS OF ZONE					
SECTION ONE			SECTION TWO		
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT	BEGINS	STA. OR M.P.
	0.000	0338-02			
ENDS	7.499	0338-02		ENDS	

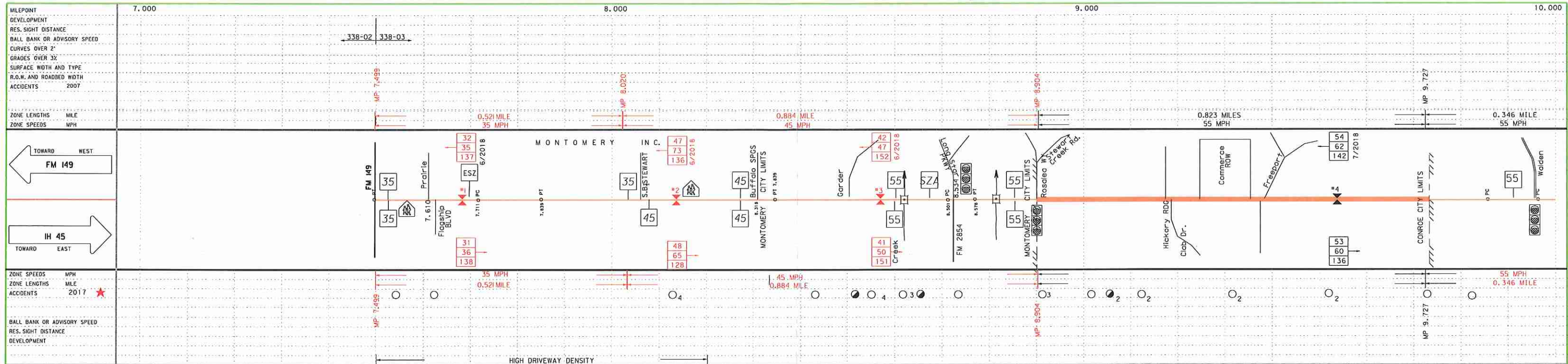
LIMITS OF ZONE			
SECTION THREE		LENGTH	
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT
ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT
SECTION FOUR		LENGTH	
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT
ENDS	STA. OR M.P.	CONT. & SECT.	PROJECT



- — FATAL ACCIDENT
- ⊙ — PERSONAL INJURY ACCIDENT
- ⊖ — PROPERTY DAMAGE ACCIDENT
- SECTION ZONED BY COMMISSION MINUTE ORDER
- EXISTING SPEED LIMIT SIGN
- SECTION ZONED BY CITY ORDINANCE
- SPEED CHECK STATION
- ★ — EXCEEDED STATEWIDE AVERAGE ACCIDENT
- ⊕ — EXISTING SIGNAL
- ⊖ — EXISTING FLASHING BECON
- ⊕ — EXISTING POLE
- ⊕ — PROPOSED SIGN
- PC — POINT OF CURVE
- PT — POINT OF TANGENT



TEXAS DEPARTMENT OF TRANSPORTATION
SPEED ZONE
 STRIP MAP 5607 C



DISTRICT	HOUSTON	COUNTY	MONTEGOMERY	MINUTE NO.	DATE
HIGHWAY	SH 105	CITY	MONTEGOMERY / RURAL	REPLACES 108184	DATE 04/27/2000
DATE OF SURVEY	7/2018	SCALE	5" = 1 MILE	REPLACES 109064	DATE 10/31/2002
LIMITS OF ZONE		CANCELED BY			
SECTION ONE	LENGTH 7.563	SECTION TWO			
BEGINS STA. OR M.P.	8.335	BEGINS STA. OR M.P.	CONT. & SECT.	PROJECT	
ENDS STA. OR M.P.	15.898	ENDS STA. OR M.P.	CONT. & SECT.	PROJECT	

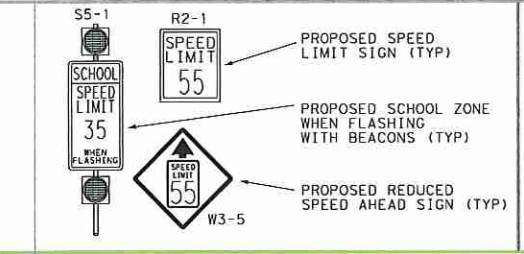
LIMITS OF ZONE			
SECTION THREE	LENGTH		
BEGINS STA. OR M.P.	CONT. & SECT.	PROJECT	
ENDS STA. OR M.P.	CONT. & SECT.	PROJECT	
SECTION FOUR	LENGTH		
BEGINS STA. OR M.P.	CONT. & SECT.	PROJECT	
ENDS STA. OR M.P.	CONT. & SECT.	PROJECT	

SPEED CHECK BLOCK:

68	- 85 PERCENTILE SPEED
74	- TOP SPEED MEASURED
85	- NUMBER OF CARS CHECKED

65 - TRIAL RUN CONDUCTED

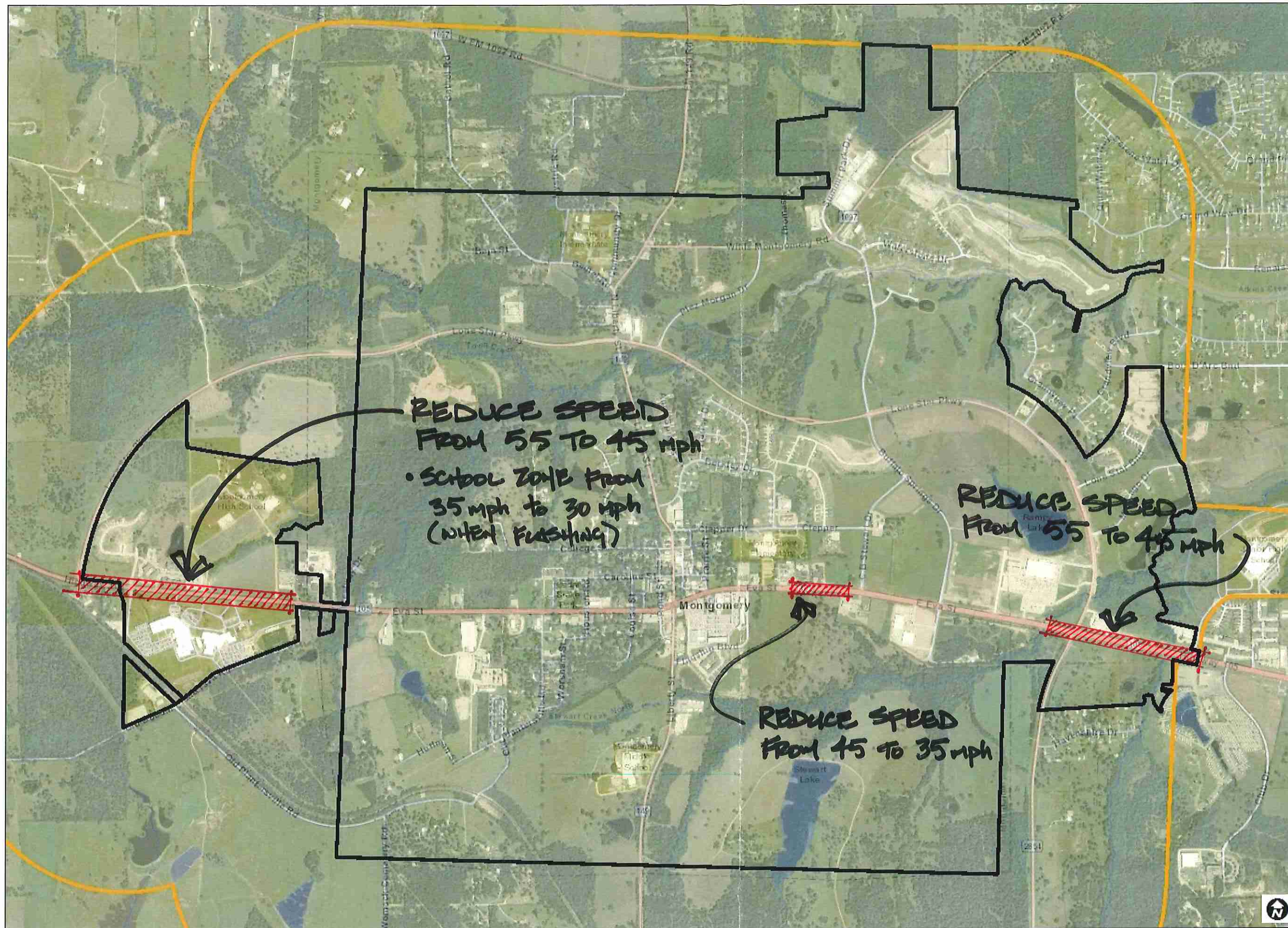
- - FATAL ACCIDENT
- - PERSONAL INJURY ACCIDENT
- ⊗ - PROPERTY DAMAGE ACCIDENT
- ⊞ - SECTION ZONED BY COMMISSION MINUTE ORDER
- 55 - EXISTING SPEED LIMIT SIGN
- - SECTION ZONED BY CITY ORDINANCE
- ⚡ - SPEED CHECK STATION
- ★ - EXCEEDED STATEWIDE AVERAGE ACCIDENT
- Ⓢ - EXISTING SIGNAL
- Ⓜ - EXISTING FLASHING BECON
- Ⓜ - EXISTING POLE
- Ⓜ - PROPOSED SIGN
- PC - POINT OF CURVE
- PT - POINT OF TANGENT



TEXAS DEPARTMENT OF TRANSPORTATION

SPEED ZONE

STRIP MAP 5608 A



LEGEND

-  City Limit
-  City ETJ

REDUCE SPEED FROM 55 TO 45 mph

- School Zone FROM 35 mph to 30 mph (WHEN FLASHING)

REDUCE SPEED FROM 55 TO 45 mph

REDUCE SPEED FROM 45 TO 35 mph

1 inch equals 1666.7 Feet



City Boundary Map

Disclaimer
 This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Jones & Carter, Inc. concerning the accuracy, completeness, reliability, or usability of the information included within this exhibit. This map was automatically generated using Geocortex Essentials.



Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
	Exhibits: Texas local government code Regarding filling vacancy on Governing board, City Secretary handbook regarding filling vacancies and Type "A" general law cities, Application for consideration of appointment form, Qualifications of Office document, Two indications of requests to be appointed
Prepared By: Jack Yates City Administrator	
Date Prepared: November 8, 2018	

Subject

This is to discuss the method of appointment of a replacement for Place # 5 on the City Council or you may choose not to reappoint a replacement. Place #5 is up for re-election in May, 2019.

Requested by a Council member to be placed on the agenda.

Description

Attached is the state law as taken from the Local Government Code directly. Also attached is the handbook for City Secretary's that in a more general sense describes filling vacancies in a Type A General Law City.

As you will see from the law your options are:

- You have from now through May, 2019 to decide about appointing a successor.
- You may make no new appointment in the position open until the May, 2019 election.
- The qualifications of Office for a person to be appointed are attached.
- Make an appointment using any guide about how you select – meaning you could simply make a motion to appoint someone and vote on the appointment with no specific requirements.
- The way that City Council has filled positions, during my 3 ½ years, in its Boards and Commissions is to publish an opening on the website and a press release has been circulated of the opening, with applications due

Montgomery City Council
AGENDA REPORT

by a certain date and then those applications are given for City Council for review.

Recommendation

Discuss if you want to make an appointment, and when ready to make an appointment place the item on the next available agenda.

Approved By

City Administrator

Jack Yates

Date: November 8, 2018

10/5/2018

The City of Montgomery Mail - Resignation and Appointment of Elected Official



Yates, Jack <jyates@ci.montgomery.tx.us>

Resignation and Appointment of Elected Official

1 message

Hensley, Susan <shensley@ci.montgomery.tx.us>
To: Jack Yates <jyates@ci.montgomery.tx.us>

Fri, Oct 5, 2018 at 10:01 AM

Texas Local Government Code

Sec. 22.010. FILLING VACANCY ON GOVERNING BODY OR IN OTHER MUNICIPAL OFFICE. (a) If for any reason a single vacancy exists on the governing body of the municipality, a majority of the remaining members who are present and voting, excluding the mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Section 11, Article XI, Texas Constitution. The mayor may vote on the appointment only if there is a tie.

Sec. 22.012. RESIGNATION OF ELECTED OR APPOINTED MUNICIPAL OFFICER. A municipal officer elected or appointed under this chapter may resign by submitting the resignation in writing to the governing body of the municipality. The resignation is subject to the approval and acceptance of the governing body.

Sincerely,

Susan Hensley
City Secretary &
Director of Administrative Services
City of Montgomery, Texas
(936) 597-6434

ATTENTION PUBLIC OFFICIALS: A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. A "Forward" of this e-mail to another public official could also lead to violations of the Texas Open Meetings Act if a quorum is eventually involved. Please reply only to the sender.

§21.001]. The statute provides that the ordinance must be enacted before the 60th day before the date of the first election of aldermen under a place system [see M §11.05].

(g) **Election by plurality vote.** Election to all offices is by plurality vote [EC § 2.001], except in a city which has increased terms of office to more than two years [see M §12.16] or in a city with a population of 200,000 or more [see M §12.21].

(h) **Election of other officers.** The offices of mayor and alderman are always elective offices. Other offices may be either elective or appointive, as determined by the city council [LGC §22.071]; except:

(1) in a city which has adopted the city manager plan of government, where all officers except the mayor and aldermen are appointed as provided by ordinance [LGC §25.051]; and

(2) in certain cities that have adopted municipal courts of record for which the statute requires that the municipal judge be elected.

§12.12. FILLING VACANCIES IN TYPE A GENERAL LAW CITIES.

(a) **Single vacancy on city council.** If a single vacancy exists on the city council of a Type A general law city, a majority of the remaining members, excluding the mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Article XI, §11, Texas Constitution, (terms increased to more than two years) [see M §12.16]. The mayor may vote on the appointment only if there is a tie. The appointee serves until the next general municipal election. However, in lieu of filling the vacancy by appointment, the city council may order a special election to fill the vacancy for the remainder of the unexpired term [LGC 22.010(a), (b) and (c)].

(b) **Two or more vacancies on city council.** If two or more vacancies on the city council exist at the same time, a special election must be ordered to fill the vacancies [LGC §22.010(d)]. [See M Ch. 13 on special elections to fill vacancies.]

(c) **Vacancies in other offices.** If a vacancy exists in any other municipal office, the mayor or acting mayor appoints a person to fill the vacancy, subject to confirmation by the city council [LGC §22.010(e)]. However, in a city which has adopted the city manager plan, municipal offices except members of the governing body are appointed as provided by ordinance [LGC §25.051]. In a city which has adopted a municipal court of record for which the municipal judge is elected, the city secretary should consult the statute enabling the court of record to determine how a vacancy in that position is filled.

(d) **Difficulties in filling a vacancy at the general election.** When a vacancy occurs on the city council after the 30th day before the uniform election date that immediately precedes a general election date and before the 30th day preceding the general election date, in a term of office not regularly filled at that general election, a question arises concerning

Texas Secretary of State

Filling Vacancies

Type A City (Local Gov't Code, Section 22.010)

- **Term of office -- 2 years**
- **Population -- at least 600 (Local Gov't Code, Section 6.001)**
- **One vacancy -- city council may fill vacancy by appointment (majority of remaining members, excluding the mayor, make the appointment) until the next regular city election (at which time office will go on ballot for unexpired term, if any) or call a special election to fill the vacancy for the remainder of the unexpired term.***
- **Two vacancies at same time -- city council must order a special election to fill the vacancies for the remainder of the unexpired term.***
- **A special election ordered to fill these vacancies is governed by Title 12 of Election Code.**

Qualifications for Office

Type A City (Local Gov't Code, Section 22.032)

- **Mayor**
Residence -- 1 year in state prior to the filing deadline; 1 year in city prior to election day
Age -- 18
Must be a registered voter in territory elected from by the filing deadline*
- **Alderman – Council Member**
Residence -- 1 year in state prior to filing deadline; 6 months in the city (or ward) prior to filing deadline (Texas Elec. Code, Section 141.001(a); Brown v. Patterson, 609 SW 2nd 287)
Age -- 18
Must be a registered voter in territory elected from by the filing deadline*

ELECTION CODE

TITLE 9. CANDIDATES

CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY

SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE

Sec. 141.001. ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE.

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - (A) totally mentally incapacitated; or
 - (B) partially mentally incapacitated without the right to vote;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
 - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made;

(6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and

(7) satisfy any other eligibility requirements prescribed by law for the office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(d) Subsection (a)(6) does not apply to a member of the governing body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 28, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 504 (H.B. 484), Sec. 1, eff. September 1, 2015.

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: _____

Name: _____
(Last) (First) (Middle)

Home Address: _____
(Street) (Home Phone No.)

Email Address: _____

Mailing Address: _____

Employer: _____
(Name/Address) (Business Phone /Fax)

Occupation: _____

Do you live inside the city limits of Montgomery?* Yes ___ No ___ If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes ___ No ___

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: _____

Related Experience/Community Service: _____

Areas of Interests Related to this Committee: _____

Please specify membership on any other governmental board/commission/committee:

Please provide a brief narrative outlining your reasons for seeking appointment to this board/ commission.

Signature

Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months.
NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act.
NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

----- Forwarded message -----

From: **Marisa Zamarripa** <marisazamarripa@yahoo.com>

Date: Fri, Oct 26, 2018 at 10:49 PM

Subject: Record

To: Susan Hensley <shensley@ci.montgomery.tx.us>, Jack Yates <jyates@ci.montgomery.tx.us>, Larry Foerster <foerster@dfcllp.com>

Susan,

I also would like to know how do we nominate Miss Stewart to be on city council? Because I know that there is an open position and I think that she would be wonderful at it and bring a lot of useful knowledge and help to our city.

Kind Regards

Marisa

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: City Council (open position)

Name: Cronin Thomas F.
(Last) (First) (Middle)

Home Address: 501 Louisa Montgomery, TX 77316
(Street) (Home Phone No.)

Email Address: tom@cozygrape.com

Mailing Address: 14340 Liberty St Montgomery TX 77356 (832) 461-9892
(Business Phone /Fax)

Employer: Cronin Group, LLC
(Name/Address)

Occupation: Self employed

Do you live inside the city limits of Montgomery? * Yes No If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery? * Yes No

If So, How Long? 6.5 years Name of Business Cozy Grape Wine Bar & Bistro

So the council may know more about you, please complete the following:

Education: BA Pol Sci University of Oklahoma

Related Experience/Community Service: President (Colorado) South Cherry Creek Metropolitan District (\$35 million budget) 3 years, HOA/POA Board Member, Townhome complex 100 homes, Pleasanton, CA

Areas of Interests Related to this Committee: Governance, mobility, low taxes, ~~non-toxic~~, traffic issues, downtown business area promotion, boost tourism

Please specify membership on any other governmental board/commission/committee:

See related experience, also senior manager @ (2) large packaging companies (35 report to) & (100+ report to)

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission.

Help smooth toxic atmosphere between council members and community, more transparency, improve communication with community

Thomas Cronin
Signature

11/2/2018
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits.
Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months.
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Montgomery City Council
AGENDA REPORT

Meeting Date: November 13, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: November 8, 2018	

Subject

This is to the city and for regarding the repairs at the Buffalo Springs bridge area.

Description

All the bridge is open, the contract is not complete. The Engineer may have a punch list of items for the contractor to finish.
The final paperwork and payments will not be complete for probably 2 to 3 months.

Recommendation

Listen to the report and comment as you think appropriate.

Approved By

City Administrator

Jack Yates

Date: November 8, 2018