

# MINUTES OF REGULAR MEETING

November 13, 2018

## MONTGOMERY CITY COUNCIL

### CALL TO ORDER

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

Present: Sara Countryman Mayor  
Jon Bickford City Council Place # 1  
John Champagne, Jr. City Council Place # 2  
T.J. Wilkerson City Council Place # 3  
Rebecca Huss City Council Place # 4

Absent: Vacant City Council Place # 5

Also Present: Jack Yates City Administrator  
Susan Hensley City Secretary  
Chris Roznovsky City Engineer

### INVOCATION

T.J. Wilkerson gave the invocation.

### PLEDGE OF ALLEGIANCE TO FLAGS

### VISITOR/CITIZENS FORUM:

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

Ms. Mary Walker – addressing the consideration of possible action on Agenda Item #8 regarding preparation of an animal control ordinance. Ms. Walker said she wanted to make sure that if they make any City ordinances that pertain to animals that it is carefully considered with the growth that is

occurring, because in her neighborhood there is a home that is for sale that has a couple of acres, and the land behind that has a potential for sale, along with the land behind her property, which would leave more acreage than what she sits on. Ms. Walker said in her neighborhood they have a little more land than some other properties in the City of Montgomery. Ms. Walker said she wanted to make sure they take careful consideration of the initial problem that they have in the City regarding animals and they are not trying to fix something immediately that is long term for the people coming to our City. Ms. Walker said when you give a certain standard of what can and cannot be done, you have to remember there is a variation of sizes, homes and land within the City. Ms. Walker said she knows there has been a suggestion made, which she received in the mail, and she just wanted to make sure the citizens fully understand what is going on. Ms. Walker said some of us are privileged to know immediately what problem began this and while everyone has the right to do what they want to they also need to be considerate of their fellow people in our City. Ms. Walker said she was here to make sure that before a decision is made, the citizens of Montgomery are given the full extent of what is going on, why they are doing it and what they are going to do, which needs to be researched as to the amount of land that your house sits on and what is actually going to be allowed on your property.

Ms. Marisa Zamarripa – stated that she wanted to address the animal ordinance that the City would like to impose. Ms. Zamarripa said that she did not think sending a letter in the water bill, the way the City did this month, was ample time for anyone to really view things. Ms. Zamarripa said she opened her water bill on Monday and today is Tuesday and they are having the meeting so she did not have time to look at anything. Ms. Zamarripa said that she did not believe that most of the citizens really know what is going on in regards to the animal ordinance and why they are doing this. Ms. Zamarripa said she knew a few people on City Council and Mr. Yates have issues with his neighbor with the dogs and said she did not believe that they should all be punished, or other people that live in the City because of something that is going on in someone's neighborhood. Ms. Zamarripa said that she felt the issue is personal and she did not think that it involves everybody else, because if it does what are they going to do about the 4H building at the high school that is not on 1.5 acres and asked if they knew how many animals are housed at that location. Ms. Zamarripa asked what are they going to do with the guy downtown with the donkeys, and asked if they are going to do this to everybody or are they only going to do it to a select few, which is what she felt was going to be done.

Mrs. Jenny Stewart – stated she was here to address Agenda Item #8, and suggested that the citizens be given adequate notice time and input into the animal control ordinance before it is considered for

vote. Mrs. Stewart said a public hearing and/or workshop she felt would be the best consideration for everyone. Mrs. Stewart said having witnessed the ignorance of public safety protection by the release of former Police Chief Jim Napolitano, she has no faith in an animal control ordinance hastily created by the same people. Mrs. Stewart said it has come to her attention that Mr. Yates supported Maranda Lamberts dog kennel business in downtown Tishomingo, Oklahoma when he was City Manager there; what type of animal control ordinance did he have there, which might be something to look at if there was one at all. Mrs. Stewart said she thought it would better serve the public, at this time, if effort was concentrated on things that need our immediate attention. Mrs. Stewart said they need better police protection because she sees no police cars out, stating that she has seen the State Patrol, Constables and the Sheriff's Office. Mrs. Stewart said she was at the light on FM 149 and Lone Star Parkway on Monday and one of the big semis with the fracking sand container on it went by and those roads are not qualified to handle those 18 wheeler trucks, and they are not supposed to be on those roads, which no one watches. Mrs. Stewart said they have houses with junk stacked up so high in front of them that paramedics can't get to them, which is against the ordinance. Mrs. Stewart said the traffic problems caused by 18 wheelers around and behind Brookshire Bros. at times and there is no one directing traffic there at the time. Mrs. Stewart said she felt that right now this animal issue needs to be brought to the people's attention so that people can talk about it. Mrs. Stewart said they are going to have a very hard time she felt with the way things are in this town, because this was a rural town and people moved here because they wanted a rural type of life and they wanted animals. Mrs. Stewart said there will be so much grandfathered in that it needs to be thought of who is coming in later, you can't pass an ordinance and then make it retroactive for people who are already here. Mrs. Stewart asked City Council to consider the quality of life they have, the cost of living and taxes and the services that they get, and let the people have some input on this before it is voted on.

Mr. Scott Howard – stated two months ago he stood here and talked about this dog issue and an animal ordinance. Mr. Howard said he had written a speech but he did not want to bore everyone with all of it. Mr. Howard said he moved to Montgomery because it was small, rural and he did not get involved in politics because it is just not who he is. Mr. Howard said he raised two children here and it was and is a great place to live. Mr. Howard said the City is full of animal lovers which he understood, they have chickens in the back yard and they all get fresh eggs and they love it. Mr. Howard said until you live next door to 22 40-pound fecal factories, and wake up every morning and smell it and every day you listen to the hum of the pressure washer that cleans it off into the grass, and every day you listen to the dog whistles, it is like living in an industrial park made for dogs. Mr. Howard said he has come



to the City Council meetings a few times and the animal ordinance kind of took a back burner with the police situation that went on a few weeks ago. Mr. Howard said this is not a small town anymore, not rural anymore and they do not live on farms. Mr. Howard said they need a no nonsense animal ordinance because while you think having cats, dogs and chickens is fun; wake up one morning and realize you live next door to the worst case scenario. Mr. Howard said he knew that everyone will be affected, stating that he has thought about the legal right to do what you want in your own home, as long as you don't put a sign in the yard you can just crank out all the feces that you want, you can build bombs in your garage, you can store toxic waste in your driveway, and as long as you do not stick a sign in your yard it is not a big deal. Mr. Howard said he comes here and he listens to people that want to rezone their property and want to go from residential to industrial or commercial, and he chuckles and thinks why waste your time, just do what you want, no one can stop you. Mr. Howard said they have to find a happy medium, and said yes it is personal just like the last lady said, it is personal to him because he lives right next door to it every single day. Mr. Howard said he hoped they can find a happy medium where they can control, because if it is not animals it has got to be zoning. Mr. Howard said you can't just wake up one morning and there is a factory next to your house. Mr. Howard said there was a piece of property on Old Plantersville Road on the other side of the railroad tracks that they are trying rezone half of it, half of it is commercial and half is industrial and they are trying to make the whole thing industrial. Mr. Howard said some of the neighbors don't want it because you never know what you are going to get, it might be a wood chipping mill, concrete factory or something moves in there and they can't handle the traffic and noise, just like the dumpster factory down here. Mr. Howard said they don't want to see it, but what can we do to stop it. Mr. Howard said he was not given the opportunity to ask if they could rezone the property two doors down, he just woke up one morning and there were dogs everywhere. Mr. Howard said until you live in his shoes and smell it every day, it is not fun. Mr. Howard said he wanted to plead that City Council find a happy medium, and he hopes they do not just get a band aid for this one issue, he is not the only person in the neighborhood or town that has animal problems, they need a no-nonsense fix it now for the long term animal control ordinance.

**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.

Rebecca Huss stated that regarding the meeting minutes she had a follow up about the sewer issue and Lone Star Estates on College Street and asked if Mr. Muckleroy, Director of Public Works had followed up on that matter and what were the results.

Mr. Muckleroy said the manhole with the tree growing out of it, they took care of that, which was a located pipe inside the manhole and it was not anything that was attached to the sewer system, it was a pipe put in so that whenever you are walking through the woods you can identify it so that you do not hit it with a mower. Mr. Muckleroy said the pipe has some twigs in it and they took care of that and they also cleaned around the manhole. Jon Bickford asked to confirm that was not a tree that was growing out of the manhole cover. Mr. Muckleroy said no, it was not. Jon Bickford said the representation that City Council was shown was fictitious. Mr. Muckleroy said it looked like actual pieces of limbs were broken and stuffed into the pipe; it was not anything live and growing. Rebecca Huss asked if it was like kids had been playing. Jon Bickford said that was a real thoughtful use of Mr. Muckleroy's time to have him go out there and fool with that.

Mr. Muckleroy said regarding the sewer issue, they received the second smoke blower today and they had a shipping issue with the smoke blowers. Mr. Muckleroy said they have sanitary sewer smoke testing planned for Monday, and said they will put fliers out on Thursday and start the testing on Monday. Mr. Muckleroy said, hopefully, they will find something major. Rebecca Huss thanked Mr. Muckleroy and said that was all she had.

John Champagne asked about Item #4 regarding correcting the Official Zoning Map, and asked if he was to assume that this is to correlate with what they believe the ordinance to be. Mr. Yates said that is correct.

Jon Bickford asked about Item #6 and asked if the fire sale Special Use Permit was annually or just for a period of time. Mr. Yates said it was until the end of April. Jon Bickford asked if this was for the property on the corner of Lone Star Parkway and FM 149. Mr. Yates said no, this was located on FM 149 on the west side of the road.

Rebecca Huss moved to approve the Consent Agenda as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

#### **CONSIDERATION AND POSSIBLE ACTION:**

7. Consideration and possible action regarding a Petition for Approval of the Creation of Montgomery County MUD No. 150.

Mr. Yates advised this was to consider the approval of the petition for the creation of Montgomery County MUD #150 that will serve the Montgomery Ridge development area. Mr. Yates said this would be behind the KOA campground on approximately 126.846 acres. Mr. Yates said in the past City Council has twice declined the request to serve the area with City utilities. Mr. Yates said 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 Montgomery and City of Conroe a MUD can opt to be completely in one City's ETJ or the other. Mr. Yates said the MUD Board, with consent of the petition will eventually approve a resolution to be completely in Conroe's ETJ. Mr. Yates stated that resolution does not require approval from either City.

Rebecca Huss said she was confused as to why they require our approval if they do not need it. Jon Bickford said he was confused about that as well. John Champagne asked if we have authority over whether they present a petition right now. Mr. Yates said no. Jon Bickford said they are stating they can create a MUD and have that MUD completely a part of Conroe's ETJ, which sounds like their intent. Mr. Yates said that is correct. Rebecca Huss said she was not sure she wanted to approve something that she did not really know anything about and if they do not need us to approve it then she does not know why they should.



Mr. Roznovsky advised this was two pieces; the first piece being the consent to create the MUD, which would be in both cities ETJ's. Mr. Roznovsky said once the MUD is created what the developer has intended from day one is that the MUD Board would then elect to go into the Conroe ETJ, which is one of the factors why the City decided not to serve them because they did not want to be in the City of Montgomery's ETJ. Mr. Roznovsky said that is correct, this is for the creation of the MUD and said the City Attorney could provide more details when he arrives at the meeting. Rebecca Huss asked to confirm that they have to have the City's consent to create the MUD. Mr. Roznovsky said that was his understanding.

Jon Bickford recommended postponing this item until the City Attorney arrives at the meeting and then come back to this item, rather than asking legal questions without our City Attorney. Jon Bickford said they could postpone the discussion until after Item #12. Mayor Countryman moved on to the next item.

After Mr. Foerster, City Attorney arrived at the meeting, he spoke on this item. Mayor Countryman explained that City Council is wanting clarification because they understand that the property of the MUD is in half of the City of Montgomery's ETJ and half is in the City of Conroe's ETJ, yet when it is going to be created they are going to Conroe's ETJ, so why is the City of Montgomery needing to approve this action. Rebecca Huss said the resolution does not require approval of either City, so if it does not require our approval then why are we approving it.

Mr. Foerster said the legislation that passed required the approval of the cities that have part of the property in their ETJ, so the statute required that the MUD have the approval of each City. John Champagne asked if that was for the petition. Mr. Foerster said yes.

Jon Bickford asked if by the City of Montgomery supporting the petition could he imagine that would impact or persuade somebody to later think about taking the property out of our ETJ. Mr. Foerster said, in his judgement, once the MUD is created and the MUD Board is created, the Water Code allows that Board, if it wants to, to elect to be entirely in one city's ETJ versus the other. Jon Bickford said if the MUD picks Conroe how that would affect the property. Mr. Foerster said, by law, if they elect to be entirely in Conroe or Montgomery, the other city loses that portion of the ETJ that was part of the MUD territory. Jon Bickford then asked if they sponsor this creation of this MUD, the words they have indicate that they intend to head towards Conroe, and what if that switches around and they decide they want to move it all to the Montgomery ETJ, can they become part of Montgomery without the City having the ability of saying yes or no because we approved

the petition. Mr. Foerster said right now there is no MUD Board created, which they can't do without this consent by both cities. Jon Bickford said if we consent to this petition could they say they are going to take all 440 acres that Montgomery did not want and attach themselves to Montgomery. Mr. Foerster said yes, they could do that, there are no strings tied to the actions of either city. Jon Bickford asked if they could append their needs. Mr. Foerster said he is not privy to everything going on in Conroe, but in his conversations with Conroe City Attorney and with Mr. David Oliver, Attorney representing MUD 150, this development is owned by Signorelli Company which is developing several other tracts besides this one, some of which are already in the City of Conroe and some are in the City of Conroe ETJ. Mr. Foerster said for purposes of trying to facilitate and work out all the arrangements it is easier to work with one City where they are already engaged in other development agreements and so forth, then to have to deal with two different cities. Jon Bickford said he understood what Mr. Foerster was saying, what the likelihood is that they would not switch over and append themselves to Montgomery; he is just saying if they did, could they once they create their MUD Board say they are not going to Conroe and we do want to move over to Montgomery. Jon Bickford said then it would extend our ETJ, but would it also require that we provide them services, which is what he is getting to and could it cost the City to have to provide services to them based on their decision, not ours. Jon Bickford said he was talking about not only water and sewer, but police, fire, etc. Mr. Foerster said he told them the City was concerned about the water and sewer capacity, and they had approached the City more than once, and they said they appreciated that so they said they would look elsewhere for water and sewer services. Mr. Foerster said he doubted that they would come back to the City and say "aha we are in your ETJ now provide us with service." Mr. Foerster said if they did that, the City would treat them like any other developer; they would look at being annexed, and the impact fees that go along with that if that was to happen. Rebecca Huss said they do not have to annex when somebody asks, so they could stay in the ETJ forever. Mr. Foerster said they might stay in Conroe's ETJ forever because there are some challenges as they develop that residential property Conroe would be subject to a petition for election to be annexed into the City of Conroe, so the prospect that the property would be immediately annexed by the City of Conroe depends upon whether the developer can enter into a development agreement early on, before they sell residential lots.

Jon Bickford said his concern is not that they get annexed by Conroe, but they cause themselves to become a part of our community that we would then have to provide, not water and sewer because they have the MUD, but a part of the community that they would have to provide police, City and fire services, etc. Jon Bickford asked if there was any way they could cause themselves to be connected to us as a result of the ETJ expansion. Mr. Foerster said they are simply going to be in



the City's ETJ. Mr. Foerster said the City has a right to decide whether we want to annex them or not, and when that happens the only thing the City can do in terms of regulation, if they are in our ETJ, is to have some control over some of the subdivision development within the ETJ, just like Conroe can do. Jon Bickford said them being in the City's ETJ, the City does not have to provide them with police services. Mr. Foerster said that was correct. Jon Bickford said then he would be okay with it. Mr. Foerster said there is no burden to the City.

Rebecca Huss said what would happen to the City if we say no and chose not to sign their petition for creation of the MUD. Mr. Foerster said it would put them in a bind because they can't move forward with the creation of the MUD Board and he feels bad about that because they have come to the City twice and said they would like to be served by the City, and they have been told both times we thank you but we don't have the capacity and we are not prepared to undergo that major step. John Champagne said he did not see any advantage for the City in denying them this petition.

Mr. Foerster said this would be a motion to accept the petition for approval for the creation of Montgomery County MUD 150.

John Champagne said that was his motion, to accept the petition for approval for the creation of Montgomery County MUD 150.

Jon Bickford said he wanted to make sure that the City will not get stuck in any way and having to provide services if this goes forward. Mr. Foerster said that would only happen if you annex the property.

Jon Bickford seconded the motion.

Discussion: Rebecca Huss said that she would like to make it clear that she shares Jon Bickford's reservations about ever accepting them into our City limits and ever having a MUD within the City limits, which will require the residents of that MUD to pay additional for services that our residents get for free. Jon Bickford said they would not become part of the City unless we voted them in. Rebecca Huss said that is correct. Mr. Foerster said they can't force the City to annex them.

The motion carried unanimously. (4-0)

8. Consideration and possible action regarding direction to the City Attorney and City Administrator for preparation of an Animal Control Ordinance.

Jon Bickford stated having seen himself what the citizens are facing around the area, where they have at least one specific problem, he felt that they needed to do something, which he is 100 percent in favor of. Jon Bickford said his concern was that they do not need this to keep dragging on either. Jon Bickford said that Mr. Yates had indicated in his notes they still need to do some research and background work. Mr. Yates said not really, he just needed direction for he and the City Attorney on whether they want to limit the number of dogs and cats, and they have a section on chickens. John Champagne said it sounds to him that one size does not fit all, and they have this mixing of a historically rural City that is now becoming more developed. John Champagne said instead of focusing on the animals solely, maybe they should look at the density in terms of developments.

John Champagne said if someone has 5-10 acres, for them to be bound to two dogs or a cat does not seem quite the same as it would be for a homes that are on top of each other or 22 dogs living next door. Rebecca Huss said she thought that John Champagne was 100 percent on the correct tract, and part of that is in terms of where you house the dogs, cats or chickens, within a certain distance either to the property line or the neighbors residence is an important component of what the impact is on your neighbor. Rebecca Huss said different types of animals need different types of land, such as someone had mentioned the donkeys and said they would not fit on an 8,000 square foot lot, but if you have a two acre lot, two miniature donkeys are not an impactful problem. Rebecca Huss said they have relied on common sense in the past and clearly common sense no longer works. Jon Bickford said he would add common courtesy to that comment. Rebecca Huss said they have obviously come to the point where the middle road has to be laid out in writing, so she thought different size lots need to be specified for different types of animals, there needs to be an exemption for 4H projects, because that is an important part of our community, but overall she felt they could come up with something. Rebecca Huss said Mr. Scott Love had done a good job of thinking of a number of things and communities like the Cowboy Church where animals are an important component of what they do and bring to the community, so they have to incorporate that as well, and figure out a way to make sure what they do does not infringe upon what they have. Rebecca Huss said she felt that they are were part way there already with option B.

Jon Bickford said he wanted to be fair to those that did not get a chance to read what was proposed in time, because they just received the information. Jon Bickford said there are provisions for 4H, for special situations like they have at the Cowboy Church, so he thought the intent was to get those



covered. Jon Bickford said he did not want to delay this, but he also did not want to make a decision without getting others' input if there is something they need to do, and if there is something the "B" version of this would cause there to be issues with people that have property who should not be impacted. Jon Bickford said if someone had two acres versus 10 acres and you want four or five dogs that is up to them. Jon Bickford said they were not talking about a situation where someone has 3-5 family pets, they are talking about a house that is running a dog training operation in a neighborhood, with 15-20 dogs at a time and it is a mess.

Mrs. Stewart said she felt very bad for Mr. Howard and the situation. Jon Bickford said there are four other houses around there too. Mrs. Stewart said she feels that this is something that needs to be looked at quite strongly because you have almost a whole section of town that is agricultural that does not have water/sewer power. Mrs. Stewart said she has a house on one acre with three dogs and two cats, and she has a whole bunch of other land with anywhere from 9-15 horses at a time and that is agricultural. Mrs. Stewart said they can't do anything else with the land; it does not have water and sewer power, so her situation is different than his, so she felt that needed to be addressed. Mrs. Stewart said she did not think they could pass an ordinance to make it retroactive for someone because there would be a lawsuit. Mrs. Stewart said she hoped that everyone could work together to solve this problem. Jon Bickford said he thought it was important to have the whole story and to not draw conclusions without understanding what these people are going through and unfortunately they are in a situation where they have reached the end of their rope in terms of what they can do with what they have in place today and they have to find an alternative. Jon Bickford said this is not acceptable and he would be beside himself if that was happening next to his home; in fact he is kind of beside himself because it is happening in the home he used to own and did a lot of work on. Rebecca Huss said they need to make sure that they take away the subjective part of enforcement, and said the more quantifiable the ordinance is the better it will be for people to follow and to enforce.

John Champagne said there was always the rule of unintended consequences, in government's effort to do wonderful things for people unintended consequences result, such as some of the things they are hearing. John Champagne said for any person with common sense, 22 dogs living in a 40 foot front subdivision lot, the density is ridiculous, so this is a ridiculous, unacceptable situation. John Champagne said what they don't want to establish is an ordinance that people with vendettas can use as a hammer against their neighbors in the event they just don't like them and they heard their parakeet. John Champagne said he was all about doing things that are right for most of the people if not all of the people, without taking liberty away from each of us because everybody is

ready to take your liberty away. John Champagne said Mr. Howard's situation is totally understandable, and noted that they just need to be careful.

Jon Bickford said he was uncomfortable wrapping this up tonight because obviously some people did not get this information in the mail until Monday or Tuesday, so that does not give them enough time to review the information. Rebecca Huss asked when the water bills were mailed out. Mayor Countryman said it was one or two weeks ago. Jon Bickford said he was going to trust that if the person said they received it Monday that is when she got it. John Champagne said there is always going to be someone that did not get the information. Jon Bickford asked if there was something that they could do to get public input and then get this back for a vote. John Champagne asked if they could get a stop gap measure to reduce the dog population at this particular residence without making a formal ordinance, to reduce the dogs from 22 to four or five. Mayor Countryman said it can't just apply to them because there is another house that has 350 chickens and everyone around that location will want that applied to them, as well. John Champagne said he did not want to address anything but this house, and said he was not sure the legality allows us to do that. Mr. Yates said the closest thing, which he can discuss with the City Attorney, about whether or not this is a business and not a home occupation. Mr. Yates said if it is a business then they could act upon it through the zoning ordinance very quickly. Jon Bickford asked if they could do something in parallel to move this "B" version along with some common sense behind it. Mr. Yates said he could prepare an ordinance along the "B" vein. Mr. Yates said he could also do what amounts to an animal inventory, which they would have to do anyway under this, because they would have to know. John Champagne said it is going to have to be a fluid thing, and it can't be fluid if it is a law, so they have to be careful.

Rebecca Huss asked if this ordinance would also go to other things, such as dangerous dogs. Rebecca Huss said the "B" version does have an aspect of that addressed. Rebecca Huss asked if they would have something that would address community cats that no one specifically owns, but people take care of. Rebecca Huss also asked about prohibition on owning non-domesticated animals inside the City limits, which is included and asked if they want to include some of those other things. John Champagne asked if the proposed ordinance was on the website. Rebecca Huss said it has been in previous minutes. John Champagne asked if there was a way that citizens could give their input on the web site. Mayor Countryman said she did not think so, they would be able to download the information and we can put that they can write City Hall. John Champagne said since there is an email address on the web site that would be good enough for citizens to send their comments.



Rebecca Huss said the question is whether they want a more comprehensive ordinance rather than just the number of animals. John Champagne said he would just like to have input from the citizens and then do some fine tuning, but he just wants to get rid of those dogs for one, but he wants to be very careful with the ordinance. Rebecca Huss said that dogs, themselves, are fine in the right location, and on an 8,000 square foot lot is not the right location. Jon Bickford said that tigers are considered wild animals and there is a state law that prevents people from having them as pets.

Jon Bickford asked how they move this along.

John Champagne asked to have the City Administrator check with the City Attorney to see if they can't do something immediately to reduce the number of dogs at this particular residence, stating that he did not want to set a precedence, but we are, and said that he just does not want for them to say because he is operating a business, that all businesses be stopped because he operates a business out of his home, at a desk. John Champagne said if they can do that, because it is blatantly and overtly a business that is affecting people around it. John Champagne said this is to deal with this problem and that is all he wants to deal with; he is not dealing with all the other stuff. Rebecca Huss said this is not a motion since it is not on the agenda, but it is certainly a direction to Mr. Yates that she is 100 percent behind. Jon Bickford said he would simply add that in parallel that they let the information that was sent out be allowed to be reviewed for another three weeks and get the "B" version back on the agenda for the next meeting. Jon Bickford said they need to resolve this and not let it keep going on, so they need to either find a way to deal with the problem legally through Mr. Foerster or find some other way. John Champagne said he would ask that this be placed on the web site and once they come up with a final draft, that final draft be placed on the web site as well, before they vote on it, so if anyone wanted to air out problems they could get their information in as quickly as possible. Jon Bickford said he did not think anyone here wants to impact family pets, horses, etc., but having 15-22 dogs in and out barking and having it run as a business is crazy in a neighborhood and it is not fair.

Rebecca Huss stated another question as well, do they need to look at residential zoning and how we handle home based businesses; like John Champagne stated he sits at a desk all day in his home, which is a home based business that has zero impact on the surrounding community, but businesses that have traffic, smells or 22 dogs. Jon Bickford said it might be as simple as saying you can't have a home business where you train and sell animals, dogs, cats, birds, fish, etc. in a residential

area. Rebecca Huss said you would not want to infringe upon people that work from home because most people respect their neighbors, and said that she did not want to get all legislative with rules.

A resident stated that her neighborhood is called Sterling Heights and 20 years ago they asked for a POA, and at the time the land was available and the people were not selling it, and asked if they developed a POA in the Sterling Heights area, which is on the map, and instituted whatever POA's do, is that a quick way and can they do that. John Champagne said yes.

T.J. Wilkerson asked if this was related to a business or is it just a house where the dogs are located. Mayor Countryman stated that it is a house where the man is running a business. T.J. Wilkerson asked if the man had a permit to run the business. Mayor Countryman said the man does not require a permit. T. J. Wilkerson asked why the man that sold firewood at his home had to have a permit. Jon Bickford said they put a sign in front of their house and parking issues. Mr. Yates said it is really a question as to whether the business has a sign to attract traffic and if they act as a business. T. J. Wilkerson asked if stacked wood up at his home and did not put up a sign and people just happen to stop and buy the wood, would he be okay. Mr. Yates said it is a nebulous answer, it would depend on how many people stop. T.J. Wilkerson stated if the man has 22 dogs. Mr. Yates said it might be 24 dogs and 24 pickups two or three months apart that would cause two or three vehicles per week to go to that house.

Jon Bickford said that Mr. Yates has two tasks, 1) check with the City Attorney on whether or not they can do something immediately regarding that being a business, and 2) make sure that they solicit whatever input they can from the citizens and take that into consideration. Jon Bickford said they need to make sure that they get this on the agenda for the next meeting, as well. Mr. Yates said he understood. John Champagne said he would also say there is no big rush once they deal with this dog business, if it is solved through the City Attorney. Rebecca Huss said there is still a chicken problem. Jon Bickford said he understood about the chicken problem.

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.

Mr. Yates said the estimate for the acquisition closing costs and demolition of the building was \$104,543. Mr. Yates said because asbestos was found in the building the actual costs will be \$110,928, which is an increase of \$6,385. Mr. Yate said the increase is solely due to finding



asbestos in the building, and this is a required expense. Mr. Yates said this would not require a general fund budget amendment he just wanted to keep City Council informed on the net cost of acquiring the property. Mr. Yates asked for the authorization to spend up to an additional \$7,000 for the purchase and demolition of the property at FM 149 and SH 105.

Rebecca Huss moved to authorize the additional \$7,000 for the acquisition and demolition cost of city property at the southeast corner of FM 149 and SH 105. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

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.

No action taken on this item, which was withdrawn by the requestor.

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.

Mr. Yates stated that TxDOT has completed a speed zone study and they have three reductions of speed zones in the City. Mr. Yates advised the following areas involved:

- Reduce the speed by five miles per hour to 45 miles per hour between the eastern City limits and the bridge over Lake Creek on SH 105;
- Reduce the speed from 45 to 35 miles per hour from the front of McCoy's Lumber to the middle of A&A Landscaping on SH 105; and
- Reduce the speed from 55 to 45 miles per hour in the school zone from the west City limits to Old Dobbin/Plantersville Road stop light intersection. Mr. Yates said also in the same area a reduction in the school zone from 35 miles per hour to 30 miles per hour when flashing.

John Champagne asked if there was any discussion regarding FM 149 where it comes in past Jim's Hardware heading south. John Champagne said he thought the speed limit was 30 miles per hour at that location. John Champagne asked if there had been any discussion about lowering the speed limit at that location because a tractor trailer could wipe out a couple of businesses if they came through there at 30 miles per hour. Mr. Yates said it was not included in the TxDOT presentation.

Rebecca Huss asked where exactly in front of McCoy's Lumber are they reducing the speed, right in front of McCoy's or are they going more toward Buffalo Springs Drive. Rebecca Huss said she did not really understand their reasoning on putting the 35 miles per hour at that location because people are going to be accelerating right at the intersection there, which is a big deal because people are turning off of CB Stewart or onto CB Stewart, so she was not sure that was the safest place to have people accelerating. Mr. Yates said they were reducing the speed there from 45 miles per hour to 35 miles per hour. Rebecca Huss said she was talking about coming out of town, where the people are turning left off of CB Stewart trying to get out just as people are accelerating on SH 105. Jon Bickford said he would say that he is not a traffic expert and would tend to want to leave it to those that are experts. Rebecca Huss said that was a good point and she withdrew her comment.

T.J. Wilkerson moved to approve the ordinance as presented. John Champagne seconded the motion, the motion carried unanimously. (4-0)

12. Consideration and possible action regarding inviting applications for an open position on City Council.



Mr. Yates said state law basically states that City Council has now through May 2019 to decide about appointing a successor for Place 5 on City Council. Mr. Yates said City Council could choose to leave the position vacant until the May 2019 Election, or under any method you choose, such as applications as they have done for Boards and Commissions, or decided by a vote at any time between now and May 2019.

John Champagne asked if the City formally send out a notice that they have a vacancy that needs to be filled. Mr. Yates said they did not. John Champagne asked if Mr. Yates needed direction to do that. Mr. Yates said that he did need direction as to what City Council wanted. John Champagne said he was reading the minutes and it appeared that there was not a consensus that they should fill that vacant spot. Rebecca Huss said they decided to take no action. John Champagne asked why they decided to do nothing. Jon Bickford said they decided to postpone making any decision on what they were going to do. John Champagne said that is what he read in the minutes. John Champagne asked where they were with this action. Rebecca Huss said they were in the same spot.

John Champagne moved to fill the position.

Jon Bickford asked how they would do this. John Champagne said like they always have in the past. John Champagne asked how they did with Rebecca Huss. Rebecca Huss said she won an election. John Champagne asked how they did with T. J. Wilkerson. T. J. Wilkerson said he won an election. Rebecca Huss said the last vacancy was when Mr. Fox left. John Champagne said Joe Shockley left and there has been three that left. Rebecca Huss said Mr. Fox was the most recent one that left. John Champagne said John Fox resigned his position as Mayor. Rebecca Huss said that was correct and then they left his term vacant and Kirk Jones acted as Mayor Pro Tem for the rest of the term until the election.

Jon Bickford asked if they should make an announcement. John Champagne said that he was making a motion to send out a notice for people interested in filling the vacant City Council position.

Rebecca Huss said unless they leave the position vacant until the term, because they have a lot of other stuff that they can just keep doing with four Council members. John Champagne said he did not see where that would impede anything.

Jon Bickford seconded the motion.

Discussion: Mr. Yates asked if by posting a notice of the opening it was to be done the same way that they have done for the Planning and Zoning Commission. John Champagne said he wanted it done the same way they have done for all the other people that they have put in those slots. Jon Bickford asked if they can get it posted and the word out in time to get it on the next meeting agenda. Jon Bickford said if they are interested then they can get an application form filled out so City Council can make a decision at the next meeting, which means they are going to need to have the applications ahead of the meeting. Mr. Yates said he can have them around Tuesday the week before the meeting, on the same form that they complete the same application as they do for the Planning and Zoning Commission. John Champagne said he did not see the point of not having an additional cross section of this community, the way it is designed with five Council members for another five to six months with a vacancy, where they could have additional insight and additional cross section of this community. John Champagne said they would have to be someone willing to come and work, which heretofore has been something that has not been too prolific.

Rebecca Huss said she felt it would be better just to stick with the four of us. John Champagne asked why just so he would know. Rebecca Huss said they all worked together for better and for worse and they have finally got it down. John Champagne asked if they had a club. Rebecca Huss said such as it is. Rebecca Huss said she felt that when they appoint somebody it is not from the cross section of the City it is one specific person. John Champagne said it gives them another area to his point, he would much rather have five heads than four. Jon Bickford said they have business to conduct so they need to get the best candidate and move forward. Rebecca Huss said she felt that it was more opportunity for things not to get along.

T. J. Wilkerson asked if the announcement would go in the newspaper or in the water bill. Mr. Yates said he would put the announcement on the web site and would prepare a press release that would go to the newspaper stating the way that people will apply will be to go to the web site and fill out the application. T.J. Wilkerson asked if the process would take a month. John Champagne said no, it would take two weeks and be decided at the next meeting. Mr. Yates said they will not have a meeting until December 11, 2018. Mr. Yates said he could get the announcement out by the end of the week, with the deadline being Tuesday the week before the meeting. Jon Bickford said they will need copies of the applications before the meeting.

John Champagne asked the City Secretary to provide a synopsis of the motion that was made. Ms. Hensley advised the motion was to post the notice of the vacant City Council position on the web site and in the newspaper, and seconded by Jon Bickford.



T. J. Wilkerson asked if the four City Council members would elect that person to serve in the vacant position. Mr. Yates said that is correct. Rebecca Huss asked if the Mayor would provide the tie breaking vote if necessary. Mr. Yates said that was correct.

The motion carried with 3-Ayes votes and 1-Nay vote by Rebecca Huss. (3-1)

Mayor Countryman stated the notice would be placed on the web site, in the newspaper and water bill in two weeks and will be ready for the December 11, 2018 City Council Meeting. Mr. Yates asked that they not include the water bill. John Champagne said including it in the water bill was not part of his motion.

13. Buffalo Springs Bridge Report by the City Engineer.

Mr. Roznovsky said this should be the last Bridge Report, advising that the Bridge is opened. Mr. Roznovsky said there were some last few items that were clean up, the water line and final testing. Mr. Roznovsky said he did not have much to report. Jon Bickford asked about the punch list and whether it was done. Mr. Roznovsky said the final cleanup and getting the slopes put back into place, but as far as the actual physical work the concrete and asphalt, there are no issues. Mr. Roznovsky said the only issue was a joint which they fixed.

Jon Bickford thanked Mr. Roznovsky for holding it all together while it took so long to get it done.

**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.

There were no comments made.

**ADJOURNMENT**

Jon Bickford moved to adjourn the meeting at 7:18 p.m. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Submitted by: *Susan Hensley* Date Approved: 12/11/18  
Susan Hensley, City Secretary

*Sara Countryman*  
Mayor Sara Countryman

