

MINUTES OF PUBLIC HEARING and REGULAR MEETING

October 9, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:01 p.m.

Present: Sara Countryman Mayor
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Dave McCorquodale City Council Place # 5

Absent: Jon Bickford City Council Place # 1
John Champagne, Jr. City Council Place # 2

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:

Convene into Public Hearing:

1. **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.
(First of Two Hearings)

Mayor Countryman convened the Public Hearing at 6:02 p.m.
There were no comments made during the Public Hearing.

Adjourn Public Hearing:

Mayor Countryman adjourned the Public Hearing at 6:03 p.m.

Reconvene into Regular Session:

Mayor Countryman reconvened the Regular Session at 6:03 p.m.

VISITOR/CITIZENS FORUM:

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

Mr. David Potter stated that he wanted to say that he was still against Mrs. Fisher's place, located at 1005 Old Plantersville Road, requesting to be zoned Industrial use. Mr. Potter said that he found out today that in 2003 the property was zoned Industrial. Mr. Potter said that he has not seen anything on that information and he did not know why it is just now being brought up. Mr. Potter said that he would like to see proof that was changed to Industrial use. Mr. Potter said in 2003 he was not paying City taxes, and it was either 2006 or 2007 when the Planning and Zoning Commission met and in one of those years he started paying City taxes to the City when the City of Montgomery annexed us. Mr. Potter said he is still against the Industrial zoning and said that he does not like it; they have homes in there and they do not need any businesses and industrial work going on in that area. Mr. Potter said that was his feeling and he did not want it to happen. Mr. Potter said he wanted to see proof of the

zoning before it goes any further. Mr. Potter said 2006 and 2007 was when he built his house and all of a sudden he was in the City and started paying City taxes and before he was not paying them.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on September 25, 2018.
3. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and NNAC, Inc. (Exxon Station, Dev. No. 1812).
4. Consideration and possible action to reappoint Nelson Cox and William Simpson to the Planning and Zoning Commission.

Rebecca Huss said that she had a question about Item 3 and asked if the owners had paid their Escrow payment. Mr. Yates said they have made the payment. Rebecca Huss asked if the City had spent any time looking into how the plan is different from what the City has been told their plans would be and how it impacts the City's FM 149 and SH 105 intersection ideals. Mr. Roznovsky said the deposit was just received on Thursday last week, but they reviewed the plans today and that is one comment that they will be discussing with Mr. Yates and how they need to address. Mr. Roznovsky said the Exxon Station is not making any accommodations for the FM 149 and SH 105 intersection. Rebecca Huss asked if TxDOT owns the right-of-way and can the City proceed without them doing anything. Mr. Roznovsky said that was to be determined; he did not know the answer to that question. Rebecca Huss said that TxDOT was ready to do what they wanted to do regardless of what the City wanted them to do, so presumably they can continue at least for that corner, which would be beneficial to the City, mobility and a number of other things, which TxDOT was willing to do when it was not beneficial the City or mobility in further northern spots of FM 149. Mr. Roznovsky said he did not know what is available for them to use or if TxDOT needs additional property from Exxon, and said that is one thing that they are going to get ironed out because they also need to plat the property and a handful of other things because it has been there so long. Rebecca Huss asked if Mr. Roznovsky knew what changed Exxon's mind about contributing the property. Mr. Roznovsky said he did not know what had changed, so they made a comment to the designer that they have been using and they have not received much of a response, but again it has taken 2-3 months to get the paperwork back and now that it is back they will make a call to the owner. Mr. Yates said that he also intends to talk to the owner about the right-of-

way and to find out from TxDOT about the property. Mr. Yates said that he intends to talk to the owner right away to get as much information as possible. Rebecca Huss said that if talking did not work with them, then variances and other things that they would want from the City would be the next best way to go. Rebecca Huss said protecting that intersection was a pretty high priority and that was the whole point of activity that the City has undergone and spent money on the southern portion, so it would seem silly to let it all derail for the northern portion.

Dave McCorquodale moved to approve the Consent Agenda as submitted. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 98, "ZONING," FOR THE SHOPPES OF MONTGOMERY PROPERTY AT THE SOUTHEAST CORNER OF STATE HIGHWAY 105 AND BUFFALO SPRINGS DRIVE FROM "R-1" SINGLE-FAMILY ZONING DISTRICT, "R-2" MULTI-FAMILY ZONING DISTRICT AND "I" INSTIUTIONAL ZONING DISTRICT CLASSIFICATIONS AS FOUND ON THE CITY'S OFFICIAL ZONING MAP TO "B" COMMERCIAL ZONING DISTRICT AND "I" INSTITUIONAL ZONING DISTRICT CLASSIFICATIONS; AND PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE.

Mr. Yates advised this was to rezone the 26 acres known as The Shoppes of Montgomery located at the southwest corner of FM 2854 and SH 105. Mr. Yates said this was mentioned in the 380 Agreement with The Shoppes so this carries forward rezoning of the tract from R-1 Single Family, R-2 Multi-Family and I Institutional to B Commercial and I Institutional. Mr. Yates advised that the Institutional is the City's Sewer Plant and combines the other use to B Commercial, which is all but the City's Sewer Plant. Mr. Yates said this is in keeping with the City's 380 Agreement. Rebecca Huss said that back up material stated that they were going to get the legal description at the meeting. Mr. Yates said they will use the map that is on page 64 of the packet. Rebecca Huss said there was still a small square that is in the right third of the map, and asked if that was the lift station. Mr. Yates said that was the lift station that is

going to be moved to the Institutional location. Rebecca Huss asked if it was going to be Commercial as part of the move or will they have to change it to Commercial. Mr. Yates said that it would all be Commercial.

Rebecca Huss moved to adopt the Ordinance as previously read. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

6. 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.

Mr. Yates said that he had received a call from Mrs. Jenny Stewart after she had attended the last City Council Meeting and she heard the discussion regarding the Fisher property. Mrs. Stewart was on the Planning and Zoning Commission in 2003 to 2005 and she thought that she remembered an action item around that time regarding the property at 1005 Old Plantersville Road. Mr. Yates said that he asked the City Secretary to research the Planning Commission Minutes and that search led to Ordinance 2003-07 that was approved by City Council on April 22, 2003. Mr. Yates said Ordinance 2003-07 rezoned that property from R1 Single Family to District L Light Industrial. Mr. Yates said the Ordinance was signed by then Mayor Sue Timmerman and attested and sealed by Carol Langley, City Secretary and approved as to form by William Fowler, City Attorney. Mr. Yates said the reason this ordinance was not found in the earlier research was because it was a “missing ordinance” in the Ordinance book and the applicant never mentioned a possibility of a rezoning. Mr. Yates said the rezoning happened in April and Mrs. Fisher bought the property in December, so she might not have known about the rezoning.

Mr. Yates said he asked the City Attorney for his opinion about the effect of the ordinance. Mr. Foerster said in the City Council’s packet he has provided a summary of his thoughts on this transaction and as it has been confirmed, the 2003 Ordinance by City Council and upon the recommendation of the Planning and Zoning Commission, changed the zoning of this property from Residential to Light Industrial, which we know today as Industrial. Rebecca Huss said as a point of fact that it was against the recommendation of the Planning and Zoning Commission. Mr. Foerster said the City Secretary can confirm that information. Mr. Foerster said that action was passed by City Council on a vote of 4-Ayes to 1-Nay for changing the use

to Light Industrial. Mr. Yates read that the action of the Planning and Zoning Commission was to deny the request to change the zoning to Light Industrial. Mr. Foerster said he stands corrected. Mr. Foerster said that at any rate the vote was 4-1 to change the zoning for the property, so it was changed, which apparently that is why Mrs. Fisher received a letter from Mayor Timmerman confirming the property was zoned Industrial.

Mr. Foerster said that Mr. Yates asked him what had precedence the Amended Official Zoning Map that was just passed at the last City Council Meeting or this 2003 Ordinance. Mr. Foerster said his conclusion is it is the Ordinance. Mr. Foerster said when they discussed with Jones and Carter whether or not we would need to go through the entire process of approving the Official Zoning Map, his conclusion is that the Zoning Map simply addresses what the zoning is for each of the pieces of property that has been previously designated by the City. Mr. Foerster said it would not require any public hearings by the Planning and Zoning Commission because that has already been done by previous City Councils with regard to whatever properties there are in the City. Mr. Foerster said, in his view, the Official Zoning Map was incorrect, and was only based on the best information Jones and Carter had at the time, and they did not have the 2003 Ordinance. Mr. Foerster said in his opinion, the Official Zoning Map is incorrect, but the Zoning Ordinance of 2003 takes precedence with respect to that property. Mr. Foerster said it is his judgement that it is a moot issue for Mrs. Fisher to ask for the property to be zoned Industrial when it already has been approved as Industrial by a previous City Council.

Rebecca Huss said that since the Zoning Map takes precedence it is not actually Industrial because the map says so. Mr. Foerster said no, he is saying the Official Zoning Map does not take precedence over the Zoning Ordinance. Mr. Foerster said that he thinks this City Council needs to amend the previously Amended Zoning Map to make it current with the ordinances that this and previous City Councils have adopted. Rebecca Huss said Mr. Foerster also lays out an option for City Council not to approve the corrected Zoning Map. Mr. Foerster said they have an option as a City Council to change the zoning designation to anything they want by going through the second process that is a statute in the City's Zoning Ordinance that allows them to go back and pursue a process of Planning and Zoning reviewing the property, typically done by petition of a property owner or anyone he supposed. Mr. Foerster said there is a down side of doing that as he pointed out in the memo. Rebecca Huss said that in the discussion last

time with Mr. Jacobs, which was not completely quotable in the minutes because it was abbreviated for the list of items that are permitted in Industrial Uses, and she did not think that it is in the City's best interest to have those across from residential properties and that is the problem of having changed the attitude toward cumulative zoning midway between the zoning of Industrial, at the time, and now because we no longer have cumulative zoning. Rebecca Huss said that one that sticks in her mind is the pecan shelling, but there were many Industrial Uses that were approved that she did not feel were appropriate for the area, based on traffic, noise, and general unsuitability for being next to residential homes. Rebecca Huss said she felt that they were in a kind of quandary on how to find a solution and she felt that jumping in and deciding to reapprove the Official Zoning Map with a limited City Council present is probably not a step that she wants to take right now. Mr. Foerster said that all he is saying is currently that property is Industrial. Rebecca Huss said the Map is the thing that they use. Mr. Foerster said the Map is incorrect and is based on error. Rebecca Huss said the Map is what they use until they change it. Mr. Foerster said he felt the Ordinance is what you use to define what the Map is going to look like. Mr. Foerster said he agreed with Rebecca Huss, given the number of zoning requests that have been made along different areas of the City, he thought it would be wise for City Council or maybe Planning and Zoning to review the Comprehensive Plan, which is the basis upon what you do zone. Mr. Foerster said the Comprehensive Plan was probably done 20 plus years ago and this City has changed dramatically in that time period. Mr. Foerster said he can recall Jon Bickford, who is not present, indicating in a previous zoning issue that he was concerned about changing zoning when you have a Comprehensive Plan. Mr. Foerster said that he thought Jon Bickford's observation is good in that we should look at a Comprehensive Plan to decide whether or not what was good 20 years ago is still relevant today, so he would certainly urge the City through Planning and Zoning and City Council, with the input of the developers and property owners to revisit and get a Comprehensive Plan that speaks to where we are today.

Rebecca Huss said for the issue at hand, she is sympathetic to Mrs. Fisher's desire to sell her property for the highest value that it can achieve, which is obviously as an industrial property rather than residential, but again as the City she feels that they have a need to figure out a solution that works for everyone. Rebecca Huss said that she feels that maybe tonight with the limited Council is not potentially the night to make a decision like that, but she feels that they should make some progress in figuring out what the solution is that might not be quite so black

and white or conflictual. Mr. Foerster said that he thought they could all appreciate her concern and he is not here because he is for or against Mrs. Fisher's proposal, he is just here to state the facts and opinion and the law as he understands it.

Dave McCorquodale said that this brings up something that is not directly related to this property, but the one across the street, adjacent to Mr. Potter's place. Dave McCorquodale said, without cumulative zoning, what do you do with a parcel that is zoned one thing and is currently being used for another. Mr. Foerster said you would have to read the Zoning Ordinance, and for example, his recollection is that if you have Commercial or Industrial, a residence can be used on that property. Mr. Roznovsky said the City's zoning states that specifically for Commercial, so a Commercial Zone can be used for a residence. Mr. Roznovsky said he did not remember about the Industrial section, but to answer Dave McCorquodale's question, across the street from Mrs. Fisher, where the Single Family home is located, it is zoned Industrial. Dave McCorquodale said he tended to think that if there is an ordinance that makes a property one use, that is what it is, and he is of the opinion that there should not be any Industrial in a City the size of Montgomery in any shape or form, and said that was his feelings on the matter, but he did not think the City can without some of the points that Mr. Foerster outlined in his comments, he did not know how they could go back and make something it is not, unfortunately. Mr. Foerster said there is a difficult process to do that, but again, he thought, for example, the property along the north side of the City is zoned one way or the other and there have been efforts made to change that and this City Council has declined to do that based on the Zoning designation. Mr. Foerster said that he is simply stating that it may be time for the City to revisit the zoning across the City and see if it makes sense, because there may be areas in the City that having Industrial areas would be appropriate, such as the Iron Works, and there might be others. Mr. Foerster said the dynamics of this City in terms of its growth and the way it is changing is so rapid that he thinks this City Council and the Planning and Zoning Commission need to get a handle on it so that going forward you can have some vision for what you want the City to look like 20 years from now. Mr. Yates said for approximately a year, the Planning and Zoning Commission has had about four or five pieces of property in mind for a City initiated rezoning for areas where they thought property owners did not realize what the zoning was or that the zoning was out of line with the surroundings, they figured their intention was for City initiated rezoning on those properties rather than require the property owner to rezone.

Rebecca Huss asked Mr. Foerster, as part of the changing of Montgomery space, would it be considered a taking if the City were to revisit what the permissible uses of Industrial property would be. Rebecca Huss said that instead of pecan shelling and jack hammers, what would be considered Industrial would be much more in tune with what the City would consider acceptable within the City limits. Mr. Foerster said he thought that the City Council could redefine the definition of Commercial, R1, R2, Institutional and Industrial to narrow the scope of the development, which is within their prerogative, and generally they go through the Planning and Zoning Commission for that process to get there. Mr. Foerster said Chapter 211 of the Local Government Code gives them some guidance, but the Code states that you start with a Comprehensive Plan, which is the vision of what you want the City to look like and then the Zoning is designed to meet the vision. Rebecca Huss said that might be a solution to have the Industrial uses much more compatible with more densely populated and less noise, less odor type businesses. Rebecca Huss asked if that would be considered a taking if they were to amend the permitted uses. Mr. Foerster said he would state for the record that he would not consider it a taking, now there may be some lawyers that would disagree with him. Mr. Foerster said an inverse condemnation was the term that he used.

T.J. Wilkerson said that right now he is probably leaning toward the Ordinance. T.J. Wilkerson said regarding the north side, he would rather see and he was sure that 90 percent of the people that way would rather see more than just Industrial, like what Mr. Jacobs was trying to do in that area where there is just Iron Works, more nice commercial and residential too, not just centralized in certain parts of town. T.J. Wilkerson said he is sure that Lone Star Parkway will develop. Mr. Foerster said tonight they changed the zoning of The Shoppes of Montgomery from Residential and Industrial to Commercial, and 20 plus years ago he did not think the cow pasture or field of trees was ever going to be anything what it was described, and now this whole area along SH 105 is going to be heavily commercial with a smattering of apartments. Mr. Foerster said the City can have a lot of control over how they want the property developed, and then, when the purchaser of the property will know what they are expected to have there and if not appropriate, they have a means of coming before the Planning and Zoning Commission and ultimately City Council to convince them of the need to change the zoning. Mr. Foerster said typically this City Council has not been inclined to do that without a whole lot of justification.

Rebecca Huss said that she would still feel a whole lot more comfortable with Jon Bickford and John Champagne being here to weigh in on the matter. Mr. Foerster said that was fine, he was just telling City Council that, in his view, Mrs. Fisher's property is Industrial. Mr. Foerster said there are a lot of judges that have ruled against him in his 40 something years, so he won't say that it can't be persuaded otherwise, but that is the way that he looks at it. Rebecca Huss asked if they could table the item until the next meeting. Mr. Foerster said they could certainly move to table the item. Mr. Foerster said he did not think his position was going to change, that the property is Industrial, but she was certainly welcome to table the item and get all five Council members engaged in the conversation. Rebecca Huss said the other Council members present do not have to agree with her, they could do something else.

Rebecca Huss moved to table the item. Dave McCorquodale seconded the motion, the motion carried with 2-Aye votes and 1-Nay vote by T.J. Wilkerson. (2-1)

7. Consideration and possible action regarding the Cade Tract Utility and Economic Feasibility Study.

Mr. Roznovsky presented the Feasibility Study to City Council. Mr. Roznovsky said this is a 1.75 acre tract located between the City limits and the high school on the south side of SH 105. Mr. Roznovsky said currently the City limit line goes all the way around the tract of land, which was done when the High School was annexed, a one foot strip went around the edge of the property. Mr. Roznovsky said the property will require annexation and since it is not zoned, the intention of the zone is Commercial. Mr. Roznovsky said that property will also have to be platted and go through the process. Mr. Roznovsky said as far as water and sewer go, they are only proposing a single bathroom for their onsite office building, so it is minimal impact to the system. Mr. Roznovsky stated there is a sewer line in front of their property that they will be able to tie into and a water line on their side of the street that Public Works has confirmed they will be able to tie into. Mr. Roznovsky said that the only drainage consideration, since it is not within the Flood Plain, is if they are draining into the TxDOT right-of-way, they need to get their approval to do so. Mr. Roznovsky said they have an existing driveway, but if they change it they will need to get TxDOT approval. Mr. Roznovsky said they are not impacted by the Thoroughfare Plan. Mr. Roznovsky said regarding their development costs, they will

have a water and sewer impact fee of \$3,600 and an additional escrow amount to cover plan reviews and the remaining legal and administrative expenses for the zoning and annexation of the property.

Rebecca Huss said what if this is like a Trojan horse and then next year they put in a Wendy's. Mr. Roznovsky said that would be a change in use and it would increase the impact fee. Mr. Roznovsky said the impact fee covers substantial changes, so if a McDonald's is torn down and a water bottle facility goes in, it would change the use, but he would have to look up the information. Mr. Roznovsky said they would still pay the tap fee and the cost to make those taps if they had to upsize. Mr. Roznovsky said he did not remember if they would pay the delta between what they paid and what the new fee would be, he will check on that information.

Mr. Roznovsky said the taxes are relatively minimal so the developer has a \$350,000 property value, which based on the owner's numbers would be \$1,300 per year. Mr. Roznovsky said overall this is a relatively simple development.

T.J. Wilkerson asked if the water and sewer had been hooked up. Mr. Roznovsky said the owner is not allowed to connect until the property is platted and the plans are approved. Mr. Roznovsky said the whole reason the owner is coming to the City is when he bought the property to develop it, he tried to go to the County to get a new septic permit and he was denied because of the use or size of the property or location, and in order for him to get service he has to connect to City utilities.

Rebecca Huss moved to approve the Cade tract Utility and Economic Feasibility Study as presented. T. J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

8. Consideration and possible action regarding the Lone Star Parkway Expansion and commitment to participate.

Mr. Roznovsky said for the last few months they have been working with TxDOT and the H-GAC regarding the expansion of Lone Star Parkway. Mr. Roznovsky said the idea is since SH 105 is landlocked with businesses using Lone Star Parkway as a bypass and that becoming the State road to bypass around the City. Mr. Roznovsky said there is a process that they have

been working through to receive federal funding to pay for a portion of that project. Mr. Roznovsky said they are talking a 5-10 year project to get the road up to TxDOT's standards, made into a four lane street and then the funding. Mr. Roznovsky said the preliminary schematic that they came up with would have a two lane road that is currently there that would be removed, along with all three of the bridges that are there, two at Town Creek and one at Stewart Creek, and then reconstructing the four miles of four lane highway and new bridges at all three crossings and a new high speed connector. Mr. Roznovsky said the high speed connector coming from the west, would come straight off of SH 105 through what is now open country, and get on Lone Star Parkway without having to go through the turn. Dave McCorquodale asked if the high speed connector would be both ways or would that just be from east bound. Mr. Roznovsky said likely it would be both ways so the thought would be where the current Lone Star Parkway and the high speed connector would meet would be an intersection. Mr. Roznovsky said in Tomball at 249 bypasses to 249 through town. Mr. Roznovsky said the estimate also includes putting signalized intersections at SH 105 and Lone Star Parkway, SH 105 and a future planned thoroughfare that is by the Community Center on Lone Star Parkway, FM 149 and Buffalo Springs Drive and Lone Star Parkway.

Mr. Roznovsky said the total cost of the project is \$45 million dollars. Mr. Roznovsky said the TIP Program will fund up to 80% out of federal funds, with a 20% local match of \$9 million, which would be a partnership with Montgomery County, City of Montgomery and anyone else willing to participate. Mr. Roznovsky said the thought would be if they can go to the County and get an 80/20 share of the County's participation it would leave a \$1.9 to \$2 million dollar share for the City. Rebecca Huss said that would be about \$400,000 per year that they need to save in order to be ready in five years.

Mr. Roznovsky said there needs to be some type of funding mechanism to come up with the funds. Mr. Roznovsky said in order to get on the TIP you have to be on a Regional Transportation Plan; they have already done the studies and have the information. Mr. Roznovsky said they have a meeting with H-GAC and they ran a model to show it, so instead of submitting to be on the TIP this year, they submitted to get on the Regional Transportation Plan. Mr. Roznovsky said it does not have the October 31, 2018 deadline, so they have time to get the score based on points. Mr. Roznovsky said the readiness to proceed is the big think, so the more ready they are when they submit the TIP application, the higher potential they have

to get funding. Mr. Roznovsky said when they submit to TIP they are expecting funding within 0-4 years, to not submit and just get on the list is the 5-10 year range. Mr. Roznovsky said the thought process that has changed since this letter is we do not submit for the TIP this year, we submit on the next call for projects which is 2021 and hit that four year range. Mr. Roznovsky said that will give the City another three years to plan, start acquiring right-of-way, and start setting the limits on connections to the street to help get the readiness score up and then also work on funding mechanisms. Mr. Roznovsky said the other thing is they will get more credit if they can get committed partners between the County and the City and everyone else, and start some of the initial environmental studies and preliminary engineering to help show that readiness for the project is higher.

Mr. Roznovsky said what they are requesting tonight is authorization for the City to sign a letter of support, stating that you have reviewed this project and you see that there is a need and support moving it forward and submitting it through. Mr. Roznovsky said at the same time it is also requesting letters of support from the County, which conversations have already started with Senators Nichols and Metcalf, since they have been a big benefit to the City on the FM 149 Project. Mr. Roznovsky said this was not a commitment of funding, this is supporting the project and moving forward. Rebecca Huss said they talked about this for a long time that this is a critical component to relieving pressure on downtown and moving heavy trucks away from the SH 105 and FM 149 intersection, and having this route would allow the City to do that. Rebecca Huss said \$2 million dollars is an incredible amount of money, but starting early the City can start saving for that expense and then they can borrow too. Mr. Yates said his thought on this is the Impact Study Committee, when they meet in November, this can be part of their discussion about Impact Fees and who you charge them to. Mr. Yates said that maybe they need to start earmarking debt service fund that they keep building up every year for these type of projects. Rebecca Huss said they have been talking about it for years, as they are accumulating their depreciation funds and our maintenance funds, and things like that, it is less painful to save a little bit at a time and expand it as the budget is expanding rather than to have to pay for it in full when you don't have the money in your budget. Mr. Yates said they have a \$4 million dollar borrowing capacity in the debt service fund and he expects that to grow. Rebecca Huss said they have a lot of big water and sewer fund projects to worry about, but putting this one on the list of things that they need to accommodate for, it is good to know early

that this is coming. Mr. Roznovsky said in the next couple of years they will be able to narrow down the cost estimates.

Rebecca Huss moved to authorize the City Administrator, Jack Yates to issue a letter of support to TxDOT and H-GAC to put Lone Star Parkway on the upcoming TIP Program for Lone Star Parkway. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

9. Consideration and possible action regarding approval of the Montgomery Economic Development Corporation 2018-2019 FY Budget as recommended by the MEDC Board of Directors.

Rebecca Huss presented the 2018-2019 MEDC Budget. Rebecca Huss said for 2018-2019 they are estimating the sales tax revenue to be \$575,000 and they will be spending every penny of that, with the utility extensions being the balancing factor. Rebecca Huss said MEDC has approximately \$750,000 in the bank account, so if they have any projects for utility extensions coming through they will come back to City Council to ask for an extension of their budget to fund that project. Rebecca Huss said most of the items are fairly similar to past years, with downtown improvements of \$60,000, the reimbursement for the Kroger estimated at \$76,000 - \$77,000, with the big change this year being the new Tourism Position; total transferred to the City to pay for that person is \$80,000, with \$60,000 being the salary and \$20,000 for expenses, such as benefits.

Mayor Countryman asked how far along MEDC was in the process of finding someone for the Tourism. Rebecca Huss advised that they have spoken with three candidates and they might speak to a fourth, and they are following up with the three to ask them to do a presentation about what their plans would be if they were to be hired on a 30 day, 90 day and one year basis. Rebecca Huss said this presentation would put the candidates on an apples to apples comparison, because when you speak to different people they have different personalities and it can be difficult to compare them, and they are trying to do a good job of comparing them. Rebecca Huss said what they are looking for is more than just tourism, they are looking at tourism as a mechanism for economic development, and there are obviously other types of economic development that they are pursuing. Rebecca Huss said this person needs to be very well rounded, enthusiastic and ready to hit the ground running. Rebecca Huss said they hope

to make a decision at the Monday MEDC Meeting, which will be held here at 6:00 p.m. Dave McCorquodale asked about the festivals. Rebecca Huss said instead of picking festivals themselves, they moved them up to category 3, which is a quality of life, for \$35,000 to cover all the festivals. Rebecca Huss said they anticipate starting three new festivals for the coming year, with one being an additional Wine Festival in April, a Flag Festival in March and October Fest in October, all of which they feel will generate additional funds to help promote additional festivals for the following year or promotional activities during current fiscal year. Mayor Countryman said that it sounds exciting. Rebecca Huss pointed out that the MEDC Board has taken a much more proactive approach to making itself available for feedback and grading itself as well, and they are redoing their 1-3-5 year's goals to quantifiable items and take a look at itself in judging how they are doing. Rebecca Huss said not only will they be giving grades to their new employee, which they intend to do much more strictly, and we will also grade ourselves. Mayor Countryman said she liked the accountability and said it was important.

Dave McCorquodale moved to approve the MEDC 2018-2019 Budget as recommended by the MEDC Board of Directors. T.J. Wilkerson seconded the motion, the motion carried unanimously. (3-0)

10. Discussion regarding the Developers Round Table Discussion.

Mr. Roznovsky advised that on September 14, 2018 they had about 15-20 developers that attended the Round Table Discussion Meeting. Mr. Roznovsky said they had an open discussion regarding ordinances, thought changes and any other items that they wanted to discuss. Mr. Roznovsky said his memo highlights some of the action items that came out of the meeting, and the goal of this discussion tonight is to decide what the City Council wants to further investigate and how to move forward with some of these items.

Mr. Roznovsky said the items that were on the list are as follows:

- Cumulative Zoning – to revisit that option and Mr. Yate's thought is this is a Planning and Zoning Commission type discussion that they can look at the pros and cons. Mr. Roznovsky said there was a reason the City had cumulative zoning and there was a reason they went away from it. Mr. Roznovsky said currently what is in the Code is

just from a B-Commercial to allow residential uses and does not apply across all the zones.

- Electronic Escrow Account Updates - instead of mailing out the updates. Mr. Roznovsky said this will allow everyone to receive the information quicker and more efficiently.
- Trees and Landscaping – were big issues that were discussed, with the main point being it was cumbersome and the cost of doing the tree survey. Mr. Roznovsky said they are quoting \$600 an acre of trees, and with the Mabry tract, which is the 80 acres on FM 1097 that is a tree farm, the tree survey quote was \$80,000 due to the amount of trees on the property. Mr. Roznovsky said the City’s tree ordinance is based on a replacement of what you removed and not what you provide, so if you have no trees, you do not have to put anything back, but if you have a lot of trees you have to plant a lot more. Mr. Roznovsky said The Shoppes of Montgomery had a decently wooded site, and for them to meet the requirement they had to plant approximately 600 trees. Mr. Roznovsky said City Council will have to decide if they want to revisit the ordinance to see what options are out there, such as a percentage of coverage requirement. Rebecca Huss said there is obviously a quality thing, because she would not call Kroger’s site landscaping and an acceptable substitute for a tree. Mr. Roznovsky said Kroger did not have to follow the tree ordinance, but maybe that is where the coverage requirement says to be in this area you have to do a certain amount of coverage. Mr. Roznovsky said he thought that the City of Conroe required 20 percent. Mr. Roznovsky said the question is essentially is there another way.
- Lighting Ordinance – with the main complaint being the options for the number of fixtures and that maybe it was too soon for a Lighting Ordinance since the City is not that big yet. Rebecca Huss said she thought that was the whole point of the Ordinance was to keep the dark skies.
- Development Handbook – which they reviewed the book that was put together and there were not comments on that material.
- Sidewalk Ordinance – all of the developers generally agreed with the need for a Sidewalk Ordinance, which is more comprehensive and thoughtful of how it is laid out but they all wanted some type of way to pay for it.
- GIS – was discussed and they reviewed the system with the developers and showed them how they could use the system. Mr. Roznovsky advised that there is a link that

they can place on the City's web site. Mayor Countryman said the developers were impressed with the GIS System.

- Reimbursement – Mr. Roznovsky said the developers asked if the City was willing to change the tone on reimbursement mechanisms, either a MUD or a Management District or some other type of reimbursement. Mr. Roznovsky said they discussed the fact that they would be more willing to do more trees or more sidewalks if there was a way to get reimbursed. Rebecca Huss said they are talking about competing against MUD's who are all outside the City, but then they will end up with a cost advantage versus the developers who are already in the City who are already working within the rules the City has, so then they have people who are new to the City that want an advantage versus our existing developers. Mr. Roznovsky said the topic of discussion was brought up by an existing developer.

Mr. Roznovsky said the idea here is to hold an outside workshop with City Council and bring in some outside sources just to have an open discussion of what is available and not available, and if the answer is still no, they can just look at the pros and cons.

Rebecca Huss said for her it is pretty easy to go for looking at the Tree and Landscaping Ordinances, which is something that they have and maybe they can do it better without loosening or ruining what they have or what they are trying to do. Rebecca Huss said this might be a good first round for Planning and Zoning Commission. Rebecca Huss advised Mr. Yates the Planning and Zoning Commission might look at the permitted uses for Zoning. Rebecca Huss said the pros and cons of cumulative zoning and whether to change that should not come from the Planning and Zoning Commission first, it should be decided by City Council and then ask Planning and Zoning Commission to go from there if they need to look for language or whatever. Rebecca Huss said she felt that was a political decision from City Council and the Planning and Zoning Commission should not waste their time unless City Council knows what it wants to do. Dave McCorquodale asked Rebecca Huss if the Planning and Zoning Commission might be helping City Council understand what it is that they want to do. Rebecca Huss said maybe, they would not tell City Council what to do but maybe have a debate on the pros and cons. Rebecca Huss said maybe a third way could be what Mr. Larry Jacobs talked about, where he has a variety of landowners and where they have a PDD, the owner of the property could decide what is best for the overall value. Rebecca Huss said if you have four or five different landowners deciding on a tract of land, you really can only use

zoning to determine what happens, but is there another way to get the idea of a PDD or a District. Mayor Countryman said a workshop is definitely in order. Rebecca Huss said Mr. Jacobs had requested a workshop as well and she felt that he was right. Mayor Countryman agreed.

Dave McCorquodale said that he has often thought of the developers and how they need training on what an elected body does when it represents the citizenry as a whole, and we as the City are in the business of health, safety and welfare, in other words the quality of life. Dave McCorquodale said there was room for conversations on both the City and developer sides. Rebecca Huss said that she has been on calls where the developer wants to have a MUD where all they are providing is the roads and pipes; they are not providing the water in the pipes and they want to charge \$.5 for a period of time. Rebecca Huss said she cannot imagine how angry someone would be in the audience when she explains that someone who lives in another area gets all that service for \$.4 and the others are having to pay \$.9, and saying sorry, that is just what you should have known when you bought your house. Mayor Countryman said surely if they have a good realtor they will know that. Rebecca Huss commented that you could say buyer beware she supposed, but ultimately you are saying what are you getting for that value and you would say the developer got all his money out early rather than getting it out one house at a time in the margin that they sold the house. Rebecca Huss said they are getting it all out in a lump when they leverage all that and it is paid back in the MUD taxes versus getting it all out in a profit margin on the house or the property that they sell one by one. Mr. Roznovsky said everyone's point is having someone show the numbers, so he can do a MUD or a non-MUD, what is the difference in the tax rate, because you are paying for it one way or the other. Rebecca Huss said to her, what they are saying is the buyer does not understand that if they priced the house at \$250,000 and then they charge them \$.5 MUD taxes on top of that versus selling the house for \$280,000 and they just pay the \$.4 that would be the difference, and what they are saying is the buyer is too stupid to know that it is the same number out of their pocket every year. Rebecca Huss said that was why she had a really tough time with that and she will never get over that.

Mr. Roznovsky asked if it was worth having a workshop and what other options are out there; if it is not a MUD, what other options are there that achieve the same goal that developers know they can come to and will give them what they feel is competitive with the surrounding area to

do it and just have that discussion. Rebecca Huss said the City does not make money on big developments where they have lots of small homes in them, it costs a lot of money to roll out services to the residents if they do it well. Rebecca Huss said bringing in these huge developments, they should not be putting out the red carpet to these big developments because that is not what makes the City the high quality place that we live in. Rebecca Huss said the economics are all on their side, not on ours, ours is delivering high quality services. Rebecca Huss said she thought they should focus on doing the things on this list that the City can do and agree on and leave some of the other things for later. Rebecca Huss said they should work on the Zoning, Tree and Landscape Ordinances, pros and cons of cumulative zoning, and see if they can come to some consensus. Rebecca Huss said they can't do it all at once, so focus on the things that they can do.

Mayor Countryman said they would like to have a workshop. Mr. Roznovsky said they will have the Planning and Zoning Commission focus on cumulative zoning, gets some pros and cons and then have a joint workshop and open discussion, start looking at the Tree Ordinance, permitted uses for Zoning. Mr. Roznovsky said they will look at the Landscaping Ordinance options and present potential changes, and make no changes to the Lighting and Sidewalk Ordinances. Mayor Countryman said they can revisit the Sidewalk Ordinance once they get a Comprehensive Master Plan together. Rebecca Huss said they should not put off the Sidewalk Ordinance too long, otherwise they are going to have a bunch of development that needs sidewalks that don't have them.

11. Discussion of Report of proposed Water, Sewer and Garbage Rates amendments.

Mr. Yates advised the City will have a Public Forum on October 18, 2018 to discuss the water and sewer rates. Mr. Yates said that he wanted to give City Council a reminder and assurance that the .50 cents per 1,000 gallons for 2,000 up to 20,000, which has an effect of \$8.00 for the average customer (6,000 gallons). Mr. Yates said the other explanation was \$1.00 per 1,000 gallons for over 20,000 gallons on commercial usage. Mr. Yates said it is estimated that these two changes will bring in approximately \$39,000 to the Utility Fund. Mr. Yates said this information has already been sent out to the City's customers. Mr. Yates said the Ordinances will be brought before City Council at the October 23, 2018 meeting for action.

Rebecca Huss said this is the last of the three year plan that they had in response to the work that Jones & Carter did regarding the actual cost of providing the services. Mr. Yates said that he has not received any comments from the mail out that was sent. Rebecca Huss said she thought the information was very well written and the information provided was very clear.

12. Consideration and possible action regarding a proposal from Municode for City Web Site services.

Ms. Hensley, City Secretary presented the information to City Council. Ms. Hensley advised that she had obtained three proposals for the services, as follows:

- EZTASK (current company) - \$16,901 Initial Investment \$6,120 Annual Subscription (Year 2).
- Saffire - \$5,000 each platform (3-City, Parks & EDC) \$15,000 + \$3,000 Design + \$4,800 Licensing & Hosting. Total - \$22,800
- Municode - Custom Design and additional options at \$10,500. The additional options includes:
 - Email subscriptions/notifications that would allow a resident or visitor to elect to be notified of agendas, legal notices, announcements and changes made on the site.
 - Parks and Trails Directory would be a map of the City with flags showing all the parks that people can scan over to see the amenities of the different parks, or they can click on the flag and go to a separate page for each park.
 - Projects Directory would be a map of the City with flags showing ongoing projects, such as the bridge project or MLK/Baja. The visitor could scan over the flag and get a description of the project. There is the capability of including photos and a timeline showing the history of the project. Ms. Hensley advised this item is very important because it would allow the City to go back and add the history of the projects that have occurred in the past.

Rebecca Huss asked if that included unlimited memory. Ms. Hensley advised this has seven years of backup with additional storage. Mr. Yates advised that Municode also provides the City's Code of Ordinances, and this is an off-shoot of

the Code. Ms. Hensley said one of the blessings of this is that it will allow someone to go on the site, do a search one time and it will search the entire site, ordinances, events and calendars. Ms. Hensley advised if you put in a search for something dealing with signage, it will pull up the sign permit application, section of the Code that deals with signs, announcements; anything related to signs will be shown. Mayor Countryman said it was like a Google Directory, it is pretty intuitive and goes across City-wide anything, whether it is in parks, business, meetings, City Council, it will pull up.

Ms. Hensley advised the custom site will allow them to create web sites inside of our web site, which do not have an additional cost and is part of the custom design. Ms. Hensley stated that would allow the Parks to have their own page, HMBA could have a separate page, and the Police Department could customize their page to look like the Police Department, not just stamped to where the site is all the same template.

Mayor Countryman stated that Ms. Hensley did a great job on this and our current online presence needs a facelift, so given what Municode can do and seeing the disaster that we currently have, it is going to be mind-blowing on how much they can do and how slick and current they are going to look, as well as how user friendly, we are going to be able to provide our citizens, inside and outside the City, as well. Mayor Countryman stated that the City of Montgomery is now a Distrx City, which is a mobile application for all the historical markers, restaurants and businesses that will feed into this and will be on the web site. Mayor Countryman said for all the developers, the GIS will be on the new site. Mayor Countryman said this will also free up the City staff to be able to do what they need to do. Mayor Countryman said this will be very user friendly with tons of information, and part of our City growing up. Mayor Countryman stated that Ms. Hensley did a great job doing all the research and given the dollar amount, it is very palatable to move forward in that direction.

Ms. Hensley advised that she did talk the current web site provider into extending the contract for six months versus a year for half the cost, and the new web site will take three to four months to go live, which will allow for the transition period.

Rebecca Huss said it sounds like Municode site is something that is reasonably user friendly, so any of us with a site, such as the MEDC, will be able to update the site and does not all have to go through Ms. Hensley. Ms. Hensley advised the site will also be viewable on cell phones and tablets so you won't have to adjust your screen.

Mayor Countryman said during the month of August they had a photo contest, which had a large amount of participation. Mayor Countryman said in order to save money and not have to hire a photographer for the web site, they asked the residents, inside and outside of the City, to submit pictures. Mayor Countryman said they have received some beautiful photos that they will be able to use and give credit to those photographers.

Rebecca Huss moved to move forward with the proposal from Municode and go forward with the full site, with the email subscriptions, parks directory, projects directory, and the training. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

13. Buffalo Springs Bridge Report by the City Engineer.

Mr. Roznovsky advised the contractor was ahead of their schedule, the guardrail was being installed today, and the base work for pavement of the road was completed last week so now they are just waiting for the asphalt overlay. Mr. Roznovsky said the majority of the slope paving is in, and the overflow, which is a dedicated channel at all four corners for water to go through, was being formed up this afternoon. Mr. Roznovsky said the guardrail was not supposed to start until October 24th, paving was supposed to start the end of this week, so the revamped crew is ahead of schedule. Mayor Countryman asked if they were still shooting for the October 31, 2018 deadline. Mr. Roznovsky said yes, that was the deadline.

14. Consideration and possible action regarding acceptance of the Resignation by City Council Member Dave McCorquodale.

Dave McCorquodale said he wanted to take this opportunity to say that it has been an absolute pleasure and honor to serve the City on various Boards and Commissions, along with the last five years on City Council. Dave McCorquodale said so no one thinks that they are getting rid of him, he is actually going on just the other side of the dais here and going to work under Mr. Yates as his Assistant, and he hopes what he has to offer will certainly help the City to move forward in a reasonable manner in very uncertain and exciting times with all the development and outside pressures that we face. Dave McCorquodale said that he hopes City Council will all say yes to accept his resignation. Rebecca Huss said she supposed that she and T.J. Wilkerson have the power. T.J. Wilkerson said yes. Mayor Countryman asked when Dave McCorquodale would start working for the City. Mr. Yates advised Dave McCorquodale would be reporting for work tomorrow morning. Mayor Countryman said excellent. Dave McCorquodale said that sounds great.

Rebecca Huss moved to accept the resignation of Dave McCorquodale from City Council. T.J. Wilkerson seconded the motion.

Discussion: Mayor Countryman said Dave McCorquodale will be missed on City Council.

The motion carried unanimously. (3-0)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas. (No items at this time.)

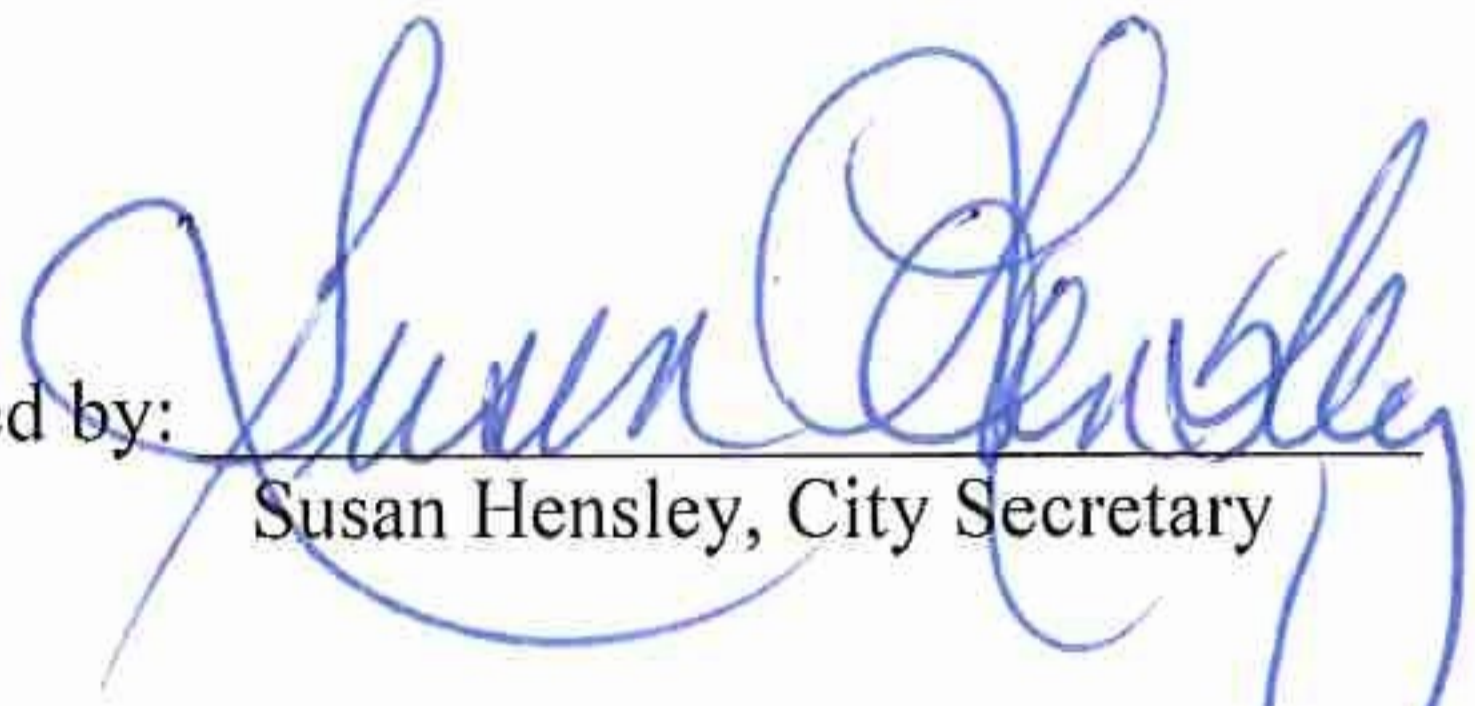
COUNCIL INQUIRY:

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

Rebecca Huss moved to adjourn the meeting at 7:28 p.m. The motion was seconded by T.J. Wilkerson, and carried unanimously.

Submitted by: 
Susan Hensley, City Secretary

Date Approved: 10/23/18


Mayor Sara Countryman

