

MINUTES OF PUBLIC HEARINGS AND REGULAR MEETING

June 26, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:04 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
Dave McCorquodale City Council Place # 5

Absent:

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

INVOCATION

John Champagne gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PRESENTATION

1. Presentation of promotional film by the Rotary Club of Lake Conroe – Tony Westlake.

Mr. Gary Milleson, member of the Park Committee, made the presentation advising that Mr. Tony Westlake was the producer of the video. Mr. Milleson advised that this video is to promote Memory Park, Fernland Park and the City of Montgomery. Mr. Milleson advised that this Friday will be the 10th Anniversary of Memory Park and said that the dedication of the

Park had occurred on June 28, 2008. Mr. Milleson advised that they had a large banner at Memory Park that emphasizes the 10th Year Anniversary. Mr. Milleson stated that the video is for the use of Montgomery City Council, Montgomery EDC who covered half the cost of the video, and the Rotary Club of Lake Conroe.

Following the video, Mr. Milleson recognized a couple of the people that helped make this video, the Director was Gary Parker, husband of long term Rotarian Laurie Parker, Tony Westlake was the Executive Producer, Matt, Branch Manager of the Library was the voice narrating the video, Annette Evans produced, composed and sang the song that was in the video. Mr. Milleson said that he hoped that everyone would use the video to their advantage. Mr. Milleson advised that they have put the flags at Memory Park early to celebrate their 10 Year Anniversary.

PUBLIC HEARING(S):

Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following:

2. **Public Hearing – Receive Final Report from the Planning and Zoning Commission resulting from their Public Hearings held on June 25, 2018 regarding the request to rezone a 2.148 acre tract of land located at 1005 Old Plantersville Road, Montgomery, from R1-Single Family to I-Industrial Use, as requested by Theresa Fisher.**

Mr. Yates said that partially based upon the conversation with the Planning and Zoning Commission and the applicant asked that the matter be tabled by the Commission so there is no report to present and no action to be taken.

Rebecca Huss asked if this would be a permanent tabling of the matter or is there a time limit. Mr. Yates said that he thought that it would be back for discussion at the next Planning and Zoning Commission Meeting. Rebecca Huss said that it seems like a burden on the residents who came to speak and asked if they were going to wait until there is no opposition and how long are they able to table the matter. Mr. Yates said that he was not sure how long they can table the matter. Rebecca Huss asked if the owner is going to be required to pay for additional

notices to be sent out to notify them of the meeting will be held next month, because if people do not know about the meeting that provides them with an advantage. Mr. Yates said that everyone is present tonight and it would be an item on the public agenda. Rebecca Huss said that the point of the mail notification is to provide the people a distinct direction and information. Mr. Yates said the City Secretary advised they would need to send out public notices again if they have another hearing. Mr. Foerster said they are expecting the owner to come back requesting a different kind of zoning classification, from industrial to perhaps commercial and they will know in the next two or three weeks what their plan is and he did indicate to the owner that public notice would have to go out if they were going to request a change in classification and they would have to start the process over.

Mayor Countryman said that she would like to have on record that they received a letter from Rodney and Linda Wade regarding the subject.

Mayor Countryman adjourned the public hearing.

Adjourn Public Hearing.

3. **Public Hearing – Regarding a request to rezone a 2.148 acre tract of land located at 1005 Old Plantersville Road, Montgomery, from R1-Single Family to I-Industrial Use, as requested by Theresa Fisher.**

Adjourn Public Hearing.

No Action was taken

4. **Public Hearing – Receive Final Report from the Planning and Zoning Commission resulting from their Public Hearings held on June 25, 2018 regarding a request to rezone a 5-acre tract of land located at 2512 Lone Star Parkway (north/west of 2500 Lone Star Parkway), Montgomery, from I-Industrial Use to R2–Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development.**

Mr. Yates said the Planning and Zoning Commission met last night to consider the request from Larry Jacobs on behalf of Star of Texas Seniors Development to reclassify zoned acreage

at 2512 Lone Star Parkway, which is northwest of 2500 Lone Star Parkway. Mr. Yates said that after the Public Hearing there were opposing comments by Nathan Kelly and Matt Fuqua who represent a competing development. Mr. Yates said that the Commission at its June 25, 2018 meeting thereby found:

- The property is currently designated with the zoning classification of “I” Industrial district.
- The property’s proposed land use by Star of Texas Seniors Development is consistent with the “R-2” Multi-Family zoning designation.
- It is in the best interest of the community to reclassify the land use zoning designation of the said parcel from “I,” Industrial to “R-2,” Multi-Family.

By unanimous vote of the Members present and following the Public Hearing, the Planning and Zoning Commission hereby presents this Final Report.

Jon Bickford asked about the comment in the report that states “this is in the best interest of the community to reclassify the land use zoning” and said that he would like to understand what that means and what rationale was used to make that declaration. Mr. Yates stated that they received a staff report that got into the question of traffic and health and safety of the area, the utilities issue and the safety of the area. Mr. Yates said that after they heard the public comments, the staff report and discussion among themselves they felt like it would be the highest and best use of the property. Mr. Yates said that the traffic issues were mentioned.

John Champagne said that he was not following the rationale on how this would benefit the City. John Champagne asked if staff happened to know the ratio of apartment unit to the population of the City of Montgomery. Mr. Yates said that there were approximately 240 apartment units and the population of the City is about 900. John Champagne said that he wondered how that stacked up with other cities that have a model that Montgomery aspires to have.

Jon Bickford moved to accept the Final Report from the Planning and Zoning Commission. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Adjourn Public Hearing

5. Public Hearing – Regarding a request to rezone a 5-acre tract of land located at 2512 Lone Star Parkway (north/west of 2500 Lone Star Parkway), Montgomery, from I-Industrial Use to R2–Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development.

Mayor Countryman convened the Public Hearing at 6:22 p.m.

Mr. Nathan Kelly who serves as the Vice President of Blazer, where they are the owner and operator of the Heritage Apartments located on Flagship Boulevard. Mr. Kelly advised that they have an application with the Texas Department of Housing and Community Affairs, the State Housing Agency for awarding tax credits to develop their second phase, the Heritage Seniors Development. Mr. Kelly said that it would be an 82 unit development mixed income senior apartment community that is already zoned R2 multifamily. Mr. Kelly said that as they have discussed there are only two applications that are seeking an award of housing tax credits in this region and both of those are in the City of Montgomery. Mr. Kelly said that at this time only one of those developments is going to receive award of housing tax credits to start construction for this year. Mr. Kelly said that the two potential awardees are their 80 unit Heritage Seniors Development and the 32 unit Star of Texas Seniors Development. Mr. Kelly said currently the Star of Texas Seniors Development is one point ahead of their competitive application and in line to receive the award. Mr. Kelly said that in order for the Star of Texas Seniors to receive the award, they have to obtain the City's approval to rezone their tract no later than July 26 of this year. Mr. Kelly said that the City Council can essentially chose which of these two developments moves forward, where in the City they want to house its seniors, which development has a more positive economic benefit to the City and the its local businesses based on data from each projects application. Mr. Kelly said that their property Heritage Seniors is expected to pay roughly \$4,800 more in real estate taxes to the City and roughly \$23,500 to the other local taxing jurisdictions in Montgomery County. Mr. Kelly said that if they assume the one person per bedroom capacity Heritage Seniors will house 68 more seniors than the Star of Texas, which should translate into incremental more local sales tax, more support to the local businesses and more available housing for Montgomery seniors. Mr. Kelly said that Heritage Seniors will also serve a broader economic cross section of seniors with 16 market rate units alongside their 64 affordable units versus the Star of Texas Seniors 32 affordable units and zero market rate units.

Mr. Kelly stated that at the June 12, 2018 City Council Meeting, City Council authorized Jones and Carter to prepare a Utility and Economic Feasibility Study of the Star of Texas Seniors Development. Mr. Kelly said that based on feedback from City staff the study will not be complete until the end of July and the staff report to the Planning and Zoning Commission last night the City Administrator noted that in preliminary discussions with the City Engineer there appears to be no issues as far as availability or adequacy of utilities. Mr. Kelly said that at last night's Planning and Zoning Commission Meeting a representative of Jones and Carter indicated it was too soon to determine the scope of the improvements that would be needed to serve the site. Mr. Kelly said that to offset these unknowns the City Administrator stated that the Star of Texas developer would cover the cost to extend the required utilities, if any, but he would ask whether or not the City Administrator and the developer have worked out an arrangement or development agreement that would evidence the details that this particular arrangement provides. Mr. Kelly said City staff has also debated that future utility improvements need to be made on a regional approach rather than small improvements to serve a single tracts. Mr. Kelly said he would ask whether or not this arrangement contemplates covering the costs necessary for the developer to meet the minimum requirements or serve a more regional need as the City stated goal would suggest. Mr. Kelly asked what if any costs would be borne by the City and really without the benefit of this Economic and Feasibility Study that has been engaged it is impossible to say. Mr. Kelly said that their senior development on Flagship Boulevard has adequate utility infrastructure already in place and their site is shovel ready. Mr. Kelly said that Section 98-30 of City of Montgomery Code of Ordinances and Section 211.007 of the Local Government Code provides that if a rezoning request is made the Zoning Commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the City Council. Mr. Kelly said the City Council may not hold a public hearing until it receives the final report of the Planning and Zoning Commission. Mr. Kelly said the City Council may not take action on the matter until they receive the final report of the Commission. Mr. Kelly said the law goes on to say that before the 10th day of each hearing date, written notice of each public hearing shall be provided and it gives different distances to folks that should be notified. Mr. Kelly said this language requires that the Planning and Zoning Commission hold multiple public hearings before it can present its final report to City Council. Mr. Kelly said at the June 25, 2018 Meeting of the Planning and Zoning Commission they only held one public hearing on the rezoning request

and since they have not held multiple public hearings required under Section 98-30 of the Ordinance and 211.007 of the Local Government Code, nor has it provided the professional engineers analysis of the impact of the rezoning, he believes that it is premature for City Council to even be holding this public hearing. Mr. Kelly said at this point he respectfully requests that the City Council instruct the Planning and Zoning Commission to follow its published Ordinance and hold at least one additional public hearing, wait to issue the final report until the Feasibility Report that Jones and Carter is preparing has been completed and reviewed by all concerned parties and for City staff to prepare a development agreement outlining the terms of the cost sharing arrangement between the City and the Star of Texas Seniors developer. Mr. Kelly thanked City Council for the opportunity to present before him and he was happy to address any questions.

John Champagne asked what the footprint of Mr. Kelly's development was acreage wise. Mr. Kelly stated that in total it is 17 acres with the existing development, the Heritage Apartments includes four acres of detention and four acres of multifamily. Mr. Kelly said that this specific second phase will also be four acres. Mr. Kelly said that they have roughly eight acres left of which they are trying to develop four with this phase.

Mr. Matt Fuqua, Vice President of Blazer and, owners of the Heritage Apartments as well as the adjoining land at 325 Flagship Boulevard. Mr. Fuqua said that they are actively developing Heritage Development. Mr. Fuqua stated they purchased their land back in 2013 and as of today they have spent a considerable amount of money and time to make improvements to the infrastructure, specifically the regional detention pond that serves Montgomery Trace Shopping Center, their properties and outlying areas from Stewart Creek, as well as full sets of working drawings for their plans for Heritage Seniors. Mr. Fuqua said he was present to speak on Agenda Item No. 4 and 5 regarding the Final Report from the Planning and Zoning Commission. Mr. Fuqua said currently Mr. Emanuel Glockzin with the Star of Texas Seniors has requested that the City of Montgomery rezone the land owned by Mr. Jacobs so Mr. Glockzin can construct the Star of Texas Seniors Apartments. Mr. Fuqua said this request is evidenced with the City Administrator's agenda report, which he wanted to note again that this report was not provided by an engineer and the letter provided by Mr. Glockzin dated May 4, 2018. Mr. Fuqua said it is important to consider how rezoning this land fits into the City's comprehensive growth plan. Mr. Fuqua said there were a couple of items that he had

mentioned last night at the Commission meeting regarding a traffic impact study and he wanted to know if that would be a part of the Feasibility Study. Mr. Fuqua stated that with a 45 mph speed limit along Lone Star Parkway he would be worried about seniors driving and trying to pull out on the road without a light and with the bridge in close proximity to the entrance. Mr. Fuqua said the tract is at the dead end of a long waterline and he would like to know about the adequacy of the water volume for this proposed development. Mr. Fuqua commented that regarding the general health and welfare he thought that one of the bigger items would be what industrial uses would come once the apartments are rezoned, the remaining area and part of the comprehensive plan shows that as industrial use. Mr. Fuqua asked how the City can tell another industrial developer what they can and can't do around the property currently zoned as industrial.

Mr. Fuqua said he appreciated the time to present his information and he would like to say that regarding the comment that was made last night during the Planning and Zoning Commission Meeting regarding the Lone Star Community Center and how the Independence Place property that is currently zoned R1 Single Family next to the Community Center and his question to City Council was why hasn't this tract requested to be rezoned as part of any previous comprehensive plan. Mr. Fuqua said in 2017 the City updated their Zoning Map, and considering that Mr. Glockzin has submitted previous applications for tax credit development on the same site that he is currently trying to develop and asked the City to rezone.

Mr. Larry Jacobs handed out a map of the Star of Texas Seniors site showing the adjacent Independence Place and the Community Center site. Mr. Jacobs stated the Planning and Zoning Commission did give them unanimous approval last night. Mr. Jacobs said when they did the Community Center and Independence Place project that was about 10 years ago they did enter into a development plan with the City but not until they had their zoning in place. Mr. Jacobs said that the developers contribution that he agreed to was \$160,000 to extend the 12 inch water line almost to the bridge and then across Lone Star Parkway to the Community Center as well as the sewer line that has got a gravity sewer from the Community Center and Independence Place out to Lone Star Parkway where there is a lift station. Mr. Jacobs said that the well is a sufficient size so they probably won't have to upsize the pump that is in it. Mr. Jacobs said that when they were going through the process with the Community Center and Independence Place they were not required to go in and do all the engineering before they knew

that they were going to get the zoning and said that was part of the process to get the zoning in place then they will continue to do all the Feasibility Studies. Mr. Jacobs said that on the map that he had presented City Council could see the density of Independence Place was 7.5 units per acre regardless of whether it is R1 or R2 and said that Mr. Glockzin's project is going to be 6.4 units per acre. Mr. Jacobs said that they are keeping with the neighborhood and he thinks that is a good neighbor for the Community Center and Independence Place.

John Champagne stated Mr. Jacobs had mentioned a well. Mr. Jacobs said that it was for the lift station and said it is a sufficient size so all they would have to do is upsize the pump.

Mr. Emanuel Glockzin developer of the Star of Texas and he wanted to state his development would be a single story complex with individual unit and currently the City of Montgomery does not have anything for seniors, there are a lot of apartments but nothing designated for seniors and these will be designated 55+. Mr. Glockzin said they have 10% handicapped units and a community building with activities.

John Champagne asked Mr. Glockzin if there would be any possibility of changing the 55 and older designation in the event they had vacancies that needed to be filled. Mr. Glockzin said no because they had a market study done and they have a land use restriction that will be filed on the property from the Texas Department of Housing Community Affairs stating and binding him to keep that provision. John Champagne said that there have been developers in this area that promoted that type of development but then went away.

Adjourn Public Hearing

Mayor Countryman adjourned the Public Hearing at 6:41 p.m.

Convene into Regular Meeting

Mayor Countryman then convened into the Regular Meeting at 6:41 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.

Mayor Countryman stated for the record that Rodney and Brenda Wade had submitted a letter regarding their comments.

Mr. Potter said he was present at the Planning and Zoning Commission Meeting last night about the rezoning of 1005 Old Plantersville Road, stating that he resides at 1000 Old Plantersville Road and said that currently he has a garbage dump in front of his place. Mr. Potter said he has put up with people dumping on the property all the time, with homeless people living there at times that he has reported to the Police and now they have a place that is wanting to rezone their property. Mr. Potter said he was completely against the rezoning and said he has people cutting across his pasture going over to the dump. Mr. Potter said he is constantly picking up trash off the road along with others that is coming from the garbage dump. Mr. Potter said there are buzzards there constantly and he is completely against Mrs. Fisher and apologized for what he had to say, but he is completely against the rezoning. Mr. Potter said this is a residential area with several nice homes and they try to keep their places up and they do not need any kind of business or industrial use at that location. Mr. Potter said he has tried to deal with Mr. Mabry about the dump many times and he would like for Mr. Foerster to check into this matter and asked how long Mr. Mabry is allowed to let that garbage sit in one dumpster. Mr. Potter said that from what he understood, Mr. Mabry was allowed to keep it in there 30 days by law and said that it is 8-10 months and there are people constantly over there dumping garbage not only in the dumpsters but on the ground. Mr. Potter said Mr. Mabry has been fined for the dumping. Mr. Potter said there are no signs up there stating "no dumping" or "no trespassing" so people keep going in there doing what they want to do. Mr. Potter said it won't be long before they get a child over there playing and they are going to get hurt because the property does not have a gate and there is nothing but trash. Mr. Potter asked who wanted to live next to a trash dump, he did not and he did not appreciate and he does not want this piece of property rezoned at all because this is residential. Mr. Potter stated that he keeps his property up and there are others that keep their property up and he did not want a bunch of trash around there. Mr. Potter said he was sick of it and he has his place up for sale because of the trash and the speeding up and down Old Plantersville Road. Mr. Potter said he would appreciate City Council thinking about his situation and the other residents there and do

something about this problem because he has tried to deal with Mr. Mabry when he was dumping trash on the ground and the trash ended up in his pasture. Mr. Potter advised he has seen homeless people living on the property and has called the Police Department. Mr. Potter said now there are two mobile homes on the property making it trashier. Mr. Potter said Mr. Yates told him that Mr. Mabry has so much time to get rid of those mobile homes and asked how many more days remain. Mr. Yates said Mr. Mabry told him that he would have them gone by next Monday. Mr. Potter said Mrs. Fisher's attorney brought up the question of who wants to live next to a railroad and said his home parallels the railroad tracks, but he did not want it done the way Mrs. Fisher wants it done. Mr. Potter said he was sure there were other residents that would say the same and said Mr. Washington was present to speak for the Wades since they were on vacation. Mr. Potter said that right now if you go down Old Plantersville Road and when you get to the dump you will see trash on the side of the road. Mr. Potter said Mr. Mabry does not keep his property up and he does not mow or spray, he does nothing. Mr. Potter said from what he understands the City is wanting to beautify Montgomery and said they are not beautifying anything it is getting trashier.

Mr. Kelly asked that City Council ask for clarification from the City Attorney Larry Foerster as to the appropriateness of the hearing tonight for Mr. Jacobs rezoning request since the Planning and Zoning Commission did not hold the two public hearings as was required.

CONSENT AGENDA:

6. Matters related to the approval of minutes of the Special Meeting held on June 7, 2018, Public Hearing and Regular Meeting held on June 12, 2018 and Workshop Meeting held on June 19, 2018.
7. Consideration and possible action regarding approval of the revised Escrow Agreement.
8. Consideration and possible action regarding authorizing Jones|Carter to perform a Utility and Economic Feasibility Study for the Louisa Lane Single Family Development.
9. Consideration and possible action regarding Change Order No. 1 for the Buffalo Springs Drive Waterline Bridge Crossing Contract.
10. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION BY THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS, SETTING A DATE, TIME, AND PLACE FOR TWO PUBLIC HEARINGS ON THE PROPOSED ANNEXATION BY THE CITY OF MONTGOMERY, TEXAS OF 1.799 ACRES OF LAND, MORE OR LESS, IN THE PUBLIC ROAD RIGHT-OF WAY OF

STATE HIGHWAY 105 EAST WHICH RUNS ADJACENT AND PARALLEL TO THE BOUNDARIES OF THE CITY; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE OF SUCH PUBLIC HEARINGS.

11. Consideration and possible action regarding scheduling Public Hearings for rezoning of a portion of the property located at the southeast corner of Buffalo Springs Drive and SH 105, a portion of the Montgomery Shoppes Tract, from R1 (single-family), R2 (multi-family), and I (Institutional) to B (commercial) and I (Institutional), as shown on the enclosed exhibits, to be held on July 24, 2018 at 6:00 pm, as requested by Montgomery SH 105 Associates.
12. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, (or "City") declining to approve the change in rates requested in Entergy Texas, Inc.'s ("ETI" or "Company") Statement of Intent filed with the City, May 15, 2018 AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS CONSIDERED WAS OPEN TO THE PUBLIC AND IN ACCORDANCE WITH TEXAS LAW.

Rebecca Huss said she wanted to discuss Items 7 and 8. Rebecca Huss that she felt the Escrow Agreement Form was an excellent idea and she does approve the changes, she just wanted to make sure as they had discussed at the last meeting when they stated that the escrow payment is due 10 days after being signed that they do in fact get the full escrow payment, otherwise getting it in partial payments is confusing. Rebecca Huss said if they are not getting the full amount or asking for the full amount then they should not have it in the escrow agreement. Mr. Yates said that was fine. Rebecca Huss said she would like to have the practice consistent with the actual legal agreement.

Rebecca Huss said with Item 8 she would prefer that if they pass the Utility and Economic Feasibility Study and it is part of the Escrow Agreement that they sign the Escrow Agreement prior to beginning upon embarking on the Feasibility Study. Rebecca Huss said she understood that they have submitted a check but have held off on the Escrow Agreement pending the approved changes to the Escrow Agreement. Mr. Yates said all that was true and he thought that they would sign the Escrow Agreement in advance of the Utility and Feasibility Study. Rebecca Huss said she thought that might be the case but she wanted to make sure.

Rebecca Huss said she also wanted to comment on the Escrow Agreement she was thinking of the amount of time Mr. Yates spends on various things that it might be helpful to put Jones and Carter's billing more in tune with the developer themselves or their engineer on a monthly basis. Rebecca Huss said rather than Mr. Yates approving the bills directly that they go first to the person who is paying the bill on a monthly basis so that there is no surprise that their escrow amount has been depleted and gets close to zero or approving bills that come into play a month or two later. Rebecca Huss said that way the person that is providing the service and the person that is paying for the service discuss the item, rather than the City Administrator who was not really involved in either of those two things. Rebecca Huss said that Mr. Yates could get involved if there needs to be adjudication. Mr. Yates said he thought that would be fine, but it would behoove the City to be on top of the monthly billing. Mr. Yates said they could send information with the billing that showed the amount that they were about to deduct from the developers escrow account. Rebecca Huss said perhaps Mr. Yates could delegate to one of the subordinates the responsibility for making sure that the two parties are getting together and agreeing and then checking everything off and sending to Mrs. Branco. Mr. Yates said the reason that he reviews the escrow bills is because he is checking on behalf of both the City and the developer to make sure that it is a good charge. Rebecca Huss said she agreed, but on the other hand she thought that it is helpful for the developer to know as well what they are being charged and it encourages everyone to be more responsive. Mr. Yates said that was fine it is just a different direction from the way they have been doing it, but it is perfectly fine. Rebecca Huss said the feedback they have gotten is that it is a big number and they do not like surprises, so if the developer receives their bills on a monthly basis rather than by the time their account is depleted they can do more to adjust.

John Champagne commented on Item 10 and asked where the annexation property was located. Mr. Yates said that it was the eastern edge of the SH 105 Right of Way, where the existing City limits to the very end of the ETJ, which includes the intersection of Stewart Creek. John Champagne asked if they have started moving dirt on this tract. Mr. Yates said no this property was the highway right of way only.

Rebecca Huss moved to approve the Consent Agenda as presented including the changes that Ms. Hensley, City Secretary made to the minutes that were provided earlier. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

13. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates said he had drafted a hotel ordinance with an incentive package that he gave to the MEDC at their June 5, 2018 Meeting that they discussed. Mr. Yates said he will present the information to City Council at the July 10, 2018 Council Meeting. Mr. Yates said he has met with the department heads in preparation of upcoming budget. Mr. Yates said they received a letter from Precinct 1 County Commissioner Mike Meador having to do with his granting of Lone Star Parkway to the City of Montgomery. Mr. Yates advised he has not specifically asked the City Attorney whether the City has to accept the offer or if there is a choice, so this will come up of the July 10, 2018 Meeting as some sort of action or response to the letter. Rebecca Huss said that in the past they had directly avoided taking responsibility for the road. Mr. Yates said they have been dreading this letter for 3-4 years or more. Mr. Yates advised that he had included information about the water plant inspections with his report. Mr. Yates said that Mr. Muckleroy is suggesting that they have Jones and Carter do the work because of the ease of staff time and the cost of the operations. Mr. Yates said Mr. Muckleroy has advised the cost of having someone else do the work would be piece meal. Mr. Yates said that unless someone wants it on the agenda for the next meeting, the intention is to go ahead and use Jones and Carter. Mr. Yates said he has included the new letterhead for the City with an example of the logo. Mr. Yates said the intention is to change this on the letterhead with white paper, dark blue lettering and having the Texas flag in red and white with the address along the bottom of the stationary. Jon Bickford said he had the same feedback as before they need to find a way to outline the white flag and said that it looks great.

Rebecca Huss said she could save Mr. Yates the time of doing the hotel incentive plan. Rebecca Huss said the MEDC does not intend to have something on paper and said that if there is a hotel that plans to come to town, the idea is to examine any hotel chain and what it would bring to the City and then they would consider the benefits that it brings to the City and make any potential financial offer and commensurate with the benefit of what it brings to the City. Rebecca Huss said it would most likely be in the form of offsetting tap fees or infrastructure investments or something like that. Mr. Yates said

he was going to rewrite what he wrote to the MEDC and then he can send it to City Council, because it will say what Rebecca Huss just stated. Mr. Yates said he could write the summary and send it out for review and if someone wants it on the agenda then he will place it on the agenda.

- B. Public Works Report – Mr. Muckleroy presented his report to Council reviewing the monthly activities. Mr. Muckleroy advised there were 3-water leaks, 10-water taps and 10-sewer taps for the month. Mr. Muckleroy advised the docents at Fernland Park reported 632 visitors and they provided 48 tours.
- C. Police Department Report – Chief of Police James Napolitano presented his report to Council. Chief Napolitano introduced Mrs. Tara Menard, Administrative Assistant for the department who transferred from the administrative offices. Chief Napolitano advised that Mrs. Menard will be trained to do evidence tagging and he is working on access to the TLET computer.
- D. Court Department Report - Court Administrator Kimberly Duckett was out for training.
- E. Utility/Development Report – Mr. Yates reported that the Utility Department water and sewer revenue brought in \$153,673, they issued 59 permits for a total of \$18,108. Mr. Yates advised that the Community Center brought in \$365. Mr. Yates said that they had 23 new water accounts and the active number of accounts is 660 and is growing about 7-10 accounts per month.

Rebecca Huss said that the Texas Town and Country Magazine has the 2018 Water and Sewer Rates and Autumn Redman, Utility and Permit Clerk helped her figure out what our rates were compared to what the averages were, as follows:

<u>Water</u>	<u>City - Residential</u>	<u>Average Bill for City our Size</u>
5,000 gallons	\$23.25	\$42.64
10,000 gallons	\$40.00	\$66.44
<u>Sewer</u>	<u>City – Commercial</u>	<u>Average Bill for City our Size</u>
5,000 gallons	\$19.75	\$27.47

10,000 gallons	\$36.50	\$35.61
200,000 gallons	\$1,277.00	\$480.60

Rebeca Huss said that the City’s sewer rates are basically the same as small town averages are so if that is the case, if we are roughly in line on sewer then other people’s small towns are hugely subsidizing their commercial users. Rebecca Huss said that our water rates are quite low compared to other small towns. Rebecca Huss said that information does not include the Lone Star Groundwater Reduction Fee, etc.

- F. Water Report – Mr. Michael Williams with Gulf Utility Service, Inc., presented his report to Council. Mr. Williams noted that the top two district alerts for the month were high wet wells at lift stations 2 and 9 were due to the storm on April 22, 2018. Mr. Williams stated that lift station 2 had a variable frequency drive failure that they were able to reset and was most likely due to a power surge. John Champagne asked if they were occurring again. Mr. Williams advised that they had a power surge last month and one this month and said they occur when they have storms they experience power surges. Mr. Roznovsky said this is different than what occurred before that they had before with the one leg power. Mr. Williams said that the last alert was at Water Plant 3 was a low level at the ground storage tank due to some loose wires in the panel that lost contact and caused part of the system to lose power.

Rebecca Huss commented that 602 Worsham is still complaining about high levels of chlorine coming out of the tap and into the swimming pool, when they use the pool tester it is pink. Mr. Williams said that the pool testers are not that accurate, but if the levels are elevated then he will check on them. Rebecca Huss said they are having burning eyes too. Mr. Williams said that they will check on it. Jon Bickford said the pink is the PH and that is different than the chlorine. Rebecca Huss said that they are both high levels. Jon Bickford said that he has noticed in the morning the smell of chlorine. Mr. Williams said that the smell is when the water sits overnight and then as the water runs the smell will go away.

Mr. Williams said that the daily effluent trend for May was 3,481,000 gallons and the daily peak flow was on April 22, 2018 at 224,000 gallons and the daily average flow was

116,000 gallons. Mr. Williams stated that the effluent test report was all in compliance for the month of May.

John Champagne asked about the CL level in the report. Mr. Williams advised that it was chlorine and they are required to stay within a minimum and maximum residual at the Wastewater Treatment Plant. John Champagne said that they are pretty much at the maximum level at 3.8.

Mr. Williams advised the total water sources was 9.303 million gallons, they flushed 163,000 gallons and sold 8.814 million gallons that brings them to a 96% accountability. Mr. Williams said that overall they are healthy on their permits. Mr. Williams said the Catahoula Well is at 61%, and the combined Well 2 and 3 are at 87% capacity left on that permit for the year. Rebecca Huss asked if they were still blending. Mr. Williams said they were still blending. John Champagne asked when they started regulating the Catahoula. Mr. Williams said they have always done that. Mr. Williams said that this month they had 39% return to the Wastewater Treatment Plant from water sold, which is standard to see in hotter months. Rebecca Huss said they had 74% return in January with 2.7 inches of rain and now it is 40% with 2.5 inches of rain, so they are back to crazy numbers. Mr. Williams said they have a lot more irrigation in the hotter months. John Champagne asked if they could attribute some to evaporation as well. Mr. Williams said most of the water that does not go through the sewer is irrigation, washing vehicles, etc.

- G. Engineer's Report – Mr. Roznovsky advised that on the Buffalo Springs Bridge they received and approved pay estimates 4 and 5 in the amount of \$76,737 and \$102,924. Mr. Roznovsky said they put together the pay estimate with the number on it that is the percentage complete by value and a percent complete by time. Mr. Roznovsky said that what has been paid to the contractor in work done versus the total contract and the amount of time and the amount of time remaining. Mr. Roznovsky said that where it stands with pay estimate 5 is at 48% complete by value and 80% complete by time, which was before the change order went in. Mr. Roznovsky said that today it stands at 48% by value and 73% by time. Mr. Roznovsky said that one thing that they need to note is that not all is weighted the same, such as pipe is an expensive item per foot. Mr. Roznovsky said that looking at what the contractor has completed that could be paid versus time, he is still

behind. Mayor Countryman said at the last report they were 22 days behind and asked if that had changed. Mr. Roznovsky said that was through the month of May so last week hurt them, but the silt did not get them as bad and they were able to get the water pumped out and get the forms and rebar installed.

Mr. Roznovsky said they plan to advertise for bids next week on the 18-inch sanitary sewer line with the bids being presented at the second meeting in July. Mr. Roznovsky said that on Baja Road they were working with Grantworks to do some final environmental clearance work and then final design and should be ready for bids at the end of the month. Mr. Roznovsky said that FEMA has provided clarification on the engineering scope for the Atkins Creek FEMA Project so they should be able to get started in the next few days. Mr. Roznovsky said they received revised plans from the Spirit of Texas today and they returned comments back to them, which Spirit of Texas expects to have them addressed and back to them tomorrow. Mr. Roznovsky reported that the Villas of Mia Lago, Section 2 is addressing their punch list items.

Mr. Roznovsky said that with the growth the City has had they are nearing the time when the total permit for the Catahoula and Jaspers is just about enough, but not quite enough to cover their demand so they are finishing up the application to Lone Star to get an additional permit for the Catahoula Well portion.

Rebecca Huss asked if they had received a Gant Chart on the Bridge. Mr. Roznovsky advised that it had been provided.

H. Financial Report – Mr. Yates presented the report to Council. Mr. Yates advised the following account balances:

General Fund - \$837,409 (this is down from last month because of the loan to the general fund to the capital improvements fund to pay for the bridge.)

Construction Fund - \$2,968,000

Utility Fund - \$560,860

Mr. Yates advised the General Fund is \$146,740 to the positive that is a very good for this time of year and the Utility Fund is at a positive of \$108,537. Mr. Yates said the total of all funds is \$5,416,836, which is up slightly.

Rebecca Huss moved to accept the departmental reports as presented. John Champagne seconded the motion, the motion carried unanimously. (5-0)

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

A JOINT RESOLUTION CONCERNING MANAGEMENT, OPERATIONS AND CAPITAL IMPROVEMENTS OF MEMORY PARK.

Mr. Gary Milleson, Memory Park Committee Member that is a part of the Rotary Club Lake Conroe made a presentation to City Council. Mr. Milleson said they have been so happy with the support they have had from the City of Montgomery. Mr. Milleson said that in February of 2013 the Park was transferred from the County to the City of Montgomery. Mr. Milleson said what they are asking for in this Resolution is to memorialize and put in writing the working relationship that they are currently enjoying with the City of Montgomery providing the basic maintenance of the Park, covering the utilities, basic mowing, trimming and helping with trash removal. Mr. Milleson said they have provided a summary that shows the history, finances that have gone through the Park in the last four years. Mr. Milleson said he wanted to point out that when they first embarked on this project they have committed that all the funds, work and time is that they have committed that the Park is planned to be used as a Memorial Park for perpetuity and is listed in the Resolution. Mr. Milleson said they have a lot of volunteer hours that are contributed to the Park, so it is not just the City and the Rotary Club. Mr. Milleson advised that Mr. Don Carter was the head of their Committee Chair for the Park and has put in 250 hours during the last 11 months. Mr. Milleson said they know that the volunteer hours in the Park are over 1,100 during the past year and said that was critical to maintaining the Park. Mr. Milleson said the Rotary Club will always be a partner and leader in keeping Memorial Park as a jewel for the City of Montgomery and the Rotary Club of Lake Conroe.

Mr. Milleson said that the sources of funds vary depending on special projects. Mr. Milleson advised that the handout summarizes the funding for the last four years. Mr. Milleson said there are two ongoing sources of funding from the standpoint of the Rotary Club that is independent of what the City provides and that the Rotary Club donates at least \$5,000-\$6,000 a year to help with the maintenance. Mr. Milleson said Mr. Carter also established a foundation, through the Montgomery County Foundation is designated for park maintenance,

and every time they have a special project they put in an extra \$10,000 in the foundation so that each year they receive the earnings from the foundation. Mr. Milleson said the earnings from the past year was \$2,100, so between that and the \$5,000 they have about \$7,000 - \$8,000 as a beginning point in what they do. Mr. Milleson said their volunteer group does all the fine tuning and trimming of the rose bushes. Mr. Milleson said Mr. Randy Burleigh was one of the volunteers and part of the 1,100 hours and helps them greatly.

Mr. Milleson said the Park is never a complete project and they are always receiving requests for new memorials. Mr. Milleson said they have a couple of projects in the works that they have to find the funding for, which is a second waterfall to the right of the main waterfall; and they have a garden that is going to be called the Volunteer Garden where they are going to honor and recognize all the volunteers. Mr. Milleson said he would make sure that Council receives the handouts.

Jon Bickford asked who desired that this Resolution be created and said he was trying to understand why this is being brought to City Council. Mr. Milleson said that they requested it because they believe that since they want to continue the Park in its current nature in perpetuity they feel it is important to have a written understanding between the Rotary Club of Lake Conroe and the City of Montgomery regarding the roles the each provide. Mr. Milleson said that they have a great partnership and there has not been any problems, but because all of us are not going to be living forever they believe it is very important to get that general understanding. Mr. Milleson said that it is not contractual, which they will see when they read it. John Champagne said that the Resolution states "nothing in the Resolution shall be construed as a contractual obligation of the City of Montgomery or shall be construed to create any legal duties owing to either party from the other party." Mr. Milleson said the Resolution is just documenting what they are currently doing. John Champagne said that hopefully both parties will continue in perpetuity. Mr. Milleson said their goal as a Rotary Club is that he is going to be a member until he dies probably, and they will remain as involved to the extent they are today and said that it is a community jewel that they want to continue in the scope that it is in and they believe it is important to just have a general understanding written and documented about the roles of both the City and the Rotary Club of Lake Conroe.

Rebecca Huss said while she does appreciate the sentiment she would like to see more information from both sides and said that it was written by the Rotary Club and not so much as a collaborative effort. Rebecca Huss said from the City's side it would make sense if it was more in a grander scheme of all of the parks and more thought put into what they see as the future of how everything works together. John Champagne said he agreed with Rebecca Huss and said Mr. Milleson had mentioned something about \$10,000 in holding. Mr. Milleson said that the \$10,000 was what they had added to the Foundation that contributes to the Park and is a designated foundation for the Park, that they added \$10,000 to last year. Mr. Milleson said that their project cost \$50,000 so they asked for another \$10,000 that they put into the foundation for maintenance. John Champagne asked if they did the \$10,000 for all major additions. Mr. Milleson said that was correct adding that they always want to try and add a little bit to what they are asking people to fund the actual cost of funding a project to contribute to maintenance, and when there is a little bit extra they put that into the foundation, which then builds that up for future maintenance. John Champagne asked if the City will have any oversight regarding making sure that portion of the monument is held in arrears for maintenance because as this park becomes more ornate, involved and complex, it becomes more expensive to maintain. John Champagne said this is not just a recreational park, this is getting to be world class if it is not already. John Champagne also commented that Memory Park was an absolute beautiful park. John Champagne said his concern is that if they keep expanding and doing all these wonderful things are they going to money set aside or does it all fall on the City at some point because perpetuity is a long time. Mr. Milleson said that the basic answer to that question is that the City's role is defined as the basic maintenance even though they keep putting other special areas, he did not see the City's expense part increasing that much. Mr. Milleson said there is going to be additional maintenance and if they end up lighting the park that will be additional, so the answer to the question about the foundation, it is strictly designated as Memory Park maintenance only and any money that they put in that account, Montgomery County Foundation, every year they get a check out of the earnings of that account, so as that grows the earnings grow. Mr. Milleson said when they started out three to four years ago they were getting \$1,500 a year and last year they got \$2,100. Mr. Milleson said they understand the importance that the maintenance is going to be an increasing issue. John Champagne asked whether the City has any input as to whether a requested project is approved. Mr. Milleson said absolutely, they have committed and Mr. Yates knows this that anything more than putting a paver, tree or bench, anything beyond that comes to the City for

approval before it is done. John Champagne said that he did not remember City Council voting on any particular project. Mr. Milleson said that the last project City Council approved was the Anderson Allen. Mr. Yates said that project was brought before City Council. Mr. Milleson said that was a commitment on the part of the Rotary Club that they are not doing any major new project, such as the water fall, will always be submitted to the City for approval prior to beginning with the project. Jon Bickford said he agreed that the Resolution should speak to both parties non-contractual but the intended obligations. Mr. Milleson said that they thought that it did but it is sort of general in that sense and does not define the specific roles. Jon Bickford said that it does not talk about the foundation dollars growing and supporting the maintenance of the park that he feels is really important because that needs to get established. Jon Bickford said they have talked about establishing a Park Board and said that it would be awesome to have a common format for the agreements for all the organizations that are supporting the parks. Mr. Yates said that they got very close to doing that about a year and a half ago and he agreed with the idea. Mr. Milleson said they have had discussions about future intent to establish a City Park Board that would be more structured to the maintenance and running of the parks. Jon Bickford said that he felt that the item needs to be tabled so they can expand the content. Rebecca Huss said the City needs to add the content and decide what they want and then how they all work together, and it is important to recognize as they are all getting older the cost of maintenance is going to rise, so that might be something to consider if you are adding new projects in the park what works as the hold back for maintenance is not going necessarily be enough to fund and then the volunteers might decrease. Mr. Milleson said that the Rotary Club will always take the leadership role in making sure that they are going to take care of the park, which means if they have to do a fund raiser sometimes should they see the maintenance increasing that is what they will do. John Champagne said that might be something that they put in the Resolution.

Jon Bickford thanked all of the volunteers that have helped at Cedar Brake Park, Memory Park, Fernland Park, and said that they were blessed with some awesome parks and we have a lot of parks that we need to make sure that we have a plan for these parks long term because we are not all going to be here. John Champagne asked if they could run this Resolution by the Technical Operations Review Committee and let them have some input as well. Mr. Yates said that he would definitely do that and said that he would like to look at the whole park issue in total. Jon Bickford said that it needed to be done ASAP. Rebecca Huss said it is a good

time because they have discussed in the past how not all the parks get an equal number of reinforcements. Rebecca Huss said that Homecoming Park in particular is always short changed. Jon Bickford asked if Rebecca Huss meant in terms of City dollars or volunteer efforts. Rebecca Huss said that she was talking about City dollars. Jon Bickford said that he was watching that pretty carefully and he thought they were pretty close. Rebecca Huss said that the water alone gives thousands of dollars. Mayor Countryman asked if Mr. Yates had the directive. Mr. Yates said that he did.

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

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, REGARDING PUBLIC WATER SYSTEM BACKFLOW ASSEMBLY PREVENTION REQUIREMENTS FOR CERTAIN ESTABLISHMENTS IN THE CITY OF MONTGOMERY, TEXAS; ADDING NEW DIVISION VI, TO ARTICLE II, ENTITLED "BACKFLOW PREVENTION," TO CITY CODE OF ORDINANCES CHAPTER 90, ENTITLED "UTILITIES;" PROVIDING THE PURPOSE AND REGULATIONS FOR NEW AND EXISTING WATER CONNECTIONS; REQUIRING ANNUAL TESTING; PROVIDING A PENALTY CLAUSE FOR VIOLATING THE ORDINANCE; PROVIDING SEVERABILITY CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

Jon Bickford moved to adopt the Ordinance regarding Backflow Preventers. John Champagne seconded the motion.

Discussion: Rebecca Huss pointed out that City Council has heard quite a bit on this subject over the last two or three meetings and she concurred with the motion.

The motion carried unanimously. (5-0)

16. Consideration and possible action regarding the Emma's Way 80' R.O.W. Dedication Final Plat.

Rebecca Huss asked Mr. Foerster for his comments on choices about the plat approval without the Escrow Agreement and whether they could require the Escrow Agreement. Rebecca Huss

said that it was her inclination was to require an Escrow Agreement. Mr. Foerster said that there has been an ongoing debate with this particular developer as to whether the City had ever approved the principal of an Escrow Agreement and he stated that he thought there were minutes to reflect that this City Council has previously done that action. Mr. Foerster said that he understood that there is money set aside to pay for all the expenses related to the final plat, and asked if that was correct. Mr. Yates said that was correct. Mr. Foerster said the question is whether City Council wants to do a final plat when there is still money that is owed for a balance of work that is being done, if they don't then City Council would hold off on the final plat until they receive an Escrow Agreement. Rebecca Huss said that given that they have funds outstanding on other projects and that they have required other developers to pay before proceeding, it would only be fair to require the Escrow Agreement and pay before completion, Rebecca Huss said that this particular developer has requested an accounting for funds on a previous project that he feels that he has not received and she felt that was a fair request. Mr. Foerster said that certainly was a fair request. Mr. Foerster said that one thing that he might add to that is that there may be more than one legal entity or company that this developer owns and Mr. Foerster said he thought we have an obligation to keep those entities separate as to what is owed by one company or paid by another company. Rebecca Huss said she did not think that it is necessarily okay to change your name in order to walk away from debts owed to the City, so she understood what Mr. Foerster was referring to in regards to a different partnership in particular, but she was not entirely sure that the City should knowingly undertake additional steps with somebody that owes money. John Champagne said he would submit that they are dealing with corporate entities, business entities and not individuals, so to bring an individual and use that individual because he may participate in two different corporations as the focal point he did not think was the appropriate thing to do. John Champagne said if they have two different business entities you treat them as two different entities, which he felt was the right thing to do.

John Champagne said he did not understand the Escrow Agreement deal, stating he thought they had one set up and asked about the problem. Rebecca Huss said she thought Mr. Yates had stated the developer had declined to sign. Mr. Yates said Mr. Cheatham has been given two Escrow Agreements in the past couple of weeks. John Champagne asked what the problem was. Mr. Yate said Mr. Cheatham has stated several times that he does not feel that the City has the authority to require an Escrow Agreement. John Champagne said he thought the

Escrow Accounts were done and changed and modified based on input from his engineering group to coincide with Conroe so it was more user friendly. Mr. Yates said that was where the section on "Not to Exceed" came from. John Champagne asked if they had not reached a point where it is acceptable yet. Mr. Yates said that City Council did earlier in the meeting, but he guessed that it was not acceptable for the developer. Mr. Yates said that they had the same wording in the Escrow Agreement that they had given to Mr. Cheatham. Mr. Foerster said in the past with the previous Emma's Way development several years ago in 2011 there was a development agreement that was entered into and there was a provision for \$10,000 of money that would be set aside, but not to exceed language in the agreement. Mr. Foerster said along came this new extension of Emma's Way and Mr. Cheatham took the position and they have had several conversations with his attorney Bill Fowler, whose partner and son is Bryan Fowler, former City of Montgomery attorney that drafted the development agreement. Mr. Foerster said that both Bill and Bryan Fowler would have to step away because of the conflict, but stated that it was apparent to him in his reading of that original development agreement that there was a limit to what the scope of that utility extension was and now this is a new project and that is where Mr. Cheatham has a concern. Rebecca Huss said she believed that Mr. Cheatham is asking for an accounting of the \$10,000, which is a fair request that he should be provided with, but that does not give him a reason to not sign the Escrow Agreement. Mr. Yates said he felt that they had already given Mr. Cheatham the information, but he understood that he asked for a clarification so he is going to send him clarification, but he wants the City Attorney to review the information prior to him sending it. Rebecca Huss said she appreciated that.

John Champagne asked what they need to do at this point. Rebecca Huss asked if they could decline or just move on. Mr. Jonathan White, Engineer for the project, advised the intent is try and clear up the question of the \$10,000 on the additional Hills of Town Creek project and the intent is to sign the Escrow Agreement. Mr. White said he did not think that the wording and the way that it has been revised is the problem, but he thinks that it is the accounting. Mr. White advised he is going to sit down with Mr. Yates tomorrow morning so they can get everything in front of them. Mr. White said they made the initial deposit and he believed that the account still has a positive balance at this time and should cover this cost and he thought that there were several processes to go forward with and he thought Mr. Cheatham would like to move forward with the approval of the plat knowing that there is still several things to be

finished on the project. Mr. Yates said they could approve the plat based upon the use of the escrow funds down or close to zero and then Mr. Cheatham would be informed not to do any more work. Rebecca Huss said they informed Mr. Cheatham not to do work and he did it anyway and then had to dig it up so that was not really the most expeditious way to discuss things with him. Mr. Yates said the City Engineers can speak about this, but some of the tests have not passed. Mr. Roznovsky said some of the testing had to be redone so there has been some additional testing since they had failed inspection multiple times. Mr. Roznovsky said it was his understanding that they would soon pass. Rebecca Huss said that everything will be more expensive and thus more contentious. Mr. Roznovsky said they have to look at the total estimate of the escrow account, by the way the plan reviews were less and inspections were extra so the numbers were still the same as it was originally proposed back in September 2017.

John Champagne asked the City Secretary to read back Mr. Yates proposed suggestion. Ms. Hensley stated that Mr. Yates had stated that Mr. Cheatham could use the escrow funds toward the plat until they got to the zero balance, and then when they got to the zero balance then the work would stop. John Champagne advised that was his motion.

Mayor Countryman said that she wanted to make a point. Mayor Countryman stated when she met with Mr. Cheatham last week about the \$10,000, he was going to look at his records on his side and present them at the next meeting. Mayor Countryman said that she wanted that put on the record that Mr. Cheatham had agreed to do that. Mr. White said he had asked Mr. Cheatham as well a couple of days ago and he is looking into the information. Mayor Countryman said that was great.

Mr. Foerster said he wanted to find out exactly what this motion was going to be approving, would it be approving the plat, not approving the plat or tabling the plat. John Champagne said that it would allow Mr. Cheatham to move on the plat.

Jon Bickford restated what he thought John Champagne had said, saying that he thought what he was saying is that John Champagne is making the motion to approve the final plat under the assumption that they use escrow funds that exist today towards the plat escrow funding until they reach zero dollars, at which time all City work would stop.

Mr. White said the funds for the plat review and recordings is actually a separate fee that is not pulled out of the escrow account, so they actually pay the plat fee when they turn in the plat to the City. Mr. White said the plat fees are not tied with the escrow account. Mr. White said that he thought that the check went in with the preliminary plat. Mayor Countryman asked Mr. Yates to double check on that information to make sure. Mr. Yates said he would check on that information.

John Champagne rescinded his motion.

Rebecca Huss moved to approve the final plat for Emma's Way 80' R.O.W. Dedication pending a signature on the modified Escrow Agreement as previously approved in tonight's agenda. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Mr. Foerster stated for a point of information for the minutes the motion made by Rebecca Huss contemplates that there will be accountability of what has been paid and what is still owed, which was her request. Rebecca Huss said no that was a separate issue regarding the \$10,000, which has to do with the Hills of Town Creek, Section 1 that is a completely separate issue. Mr. Foerster said that was good. Jon Bickford said that in all fairness to Mr. Cheatham we need to account for those dollars, which they are going to do. Rebecca Huss said Mr. Yates feels that he has already done that, which she trusts has been done properly, and Mr. Cheatham should also feel that it has been done properly but it is a separate item.

17. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky advised that yesterday the bridge area was still full of water and they pumped it out yesterday and they have started setting the forms for the next section of wall and they were able to do the rebar last week. Mr. Roznovsky said that they did lose some time last week and luckily the silt that built up because of the rains is not nearly as severe and within one day they were able to get it down and start setting the forms. Rebecca Huss asked if the silt was not a problem because of what Mr. LeFevre has done. Mr. Roznovsky said he felt that it was not a problem because the rainfall intensity was not as much at 2.5 inches spread over three to four days so they did not have the gush of water coming down. Mr. Roznovsky said that to Mr. LeFevre's point what was before was constricted with higher velocities has been reduced,

so it is probably a mixture of the two, lower velocity and the nature of the rain. Mr. Roznovsky said the work being discussed was on the south side of the bridge facing east. Mr. Roznovsky said the north side of the bridge walls are complete and the south side bridge wall work will be done in sections.

EXECUTIVE SESSION:

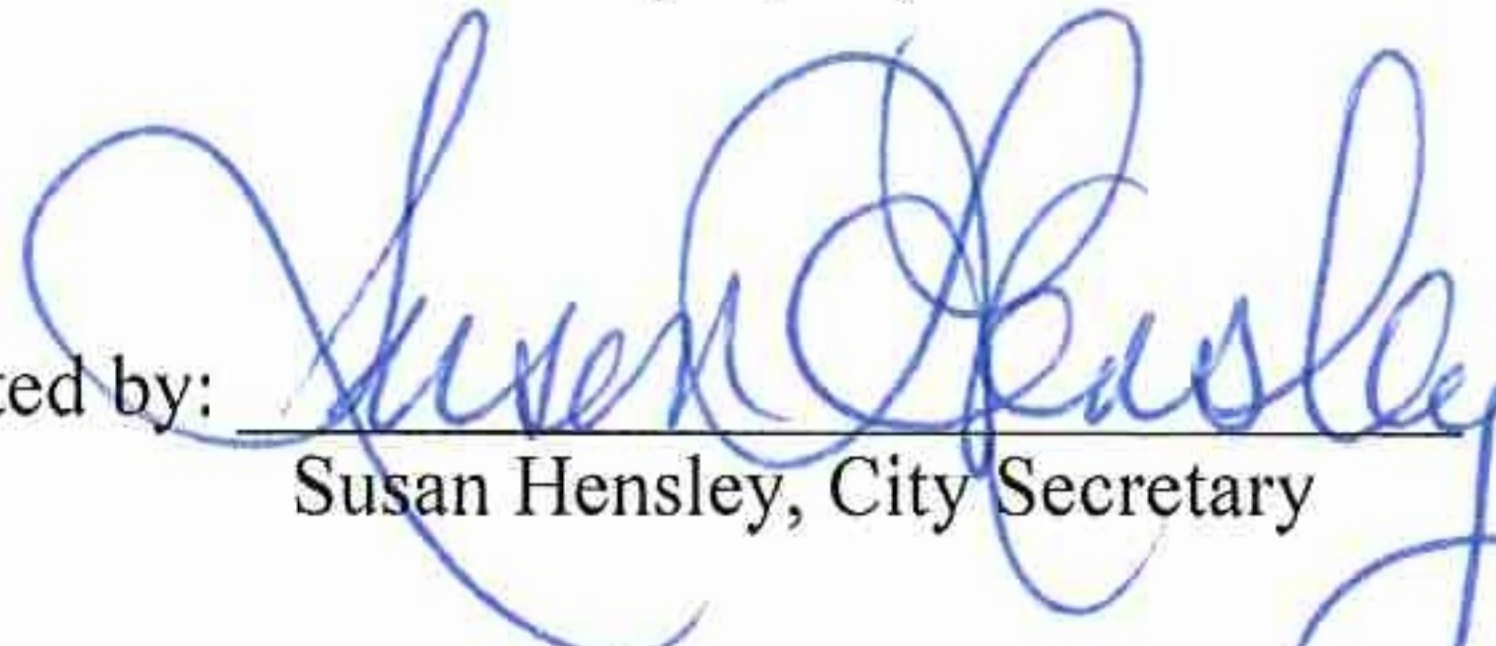
The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding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

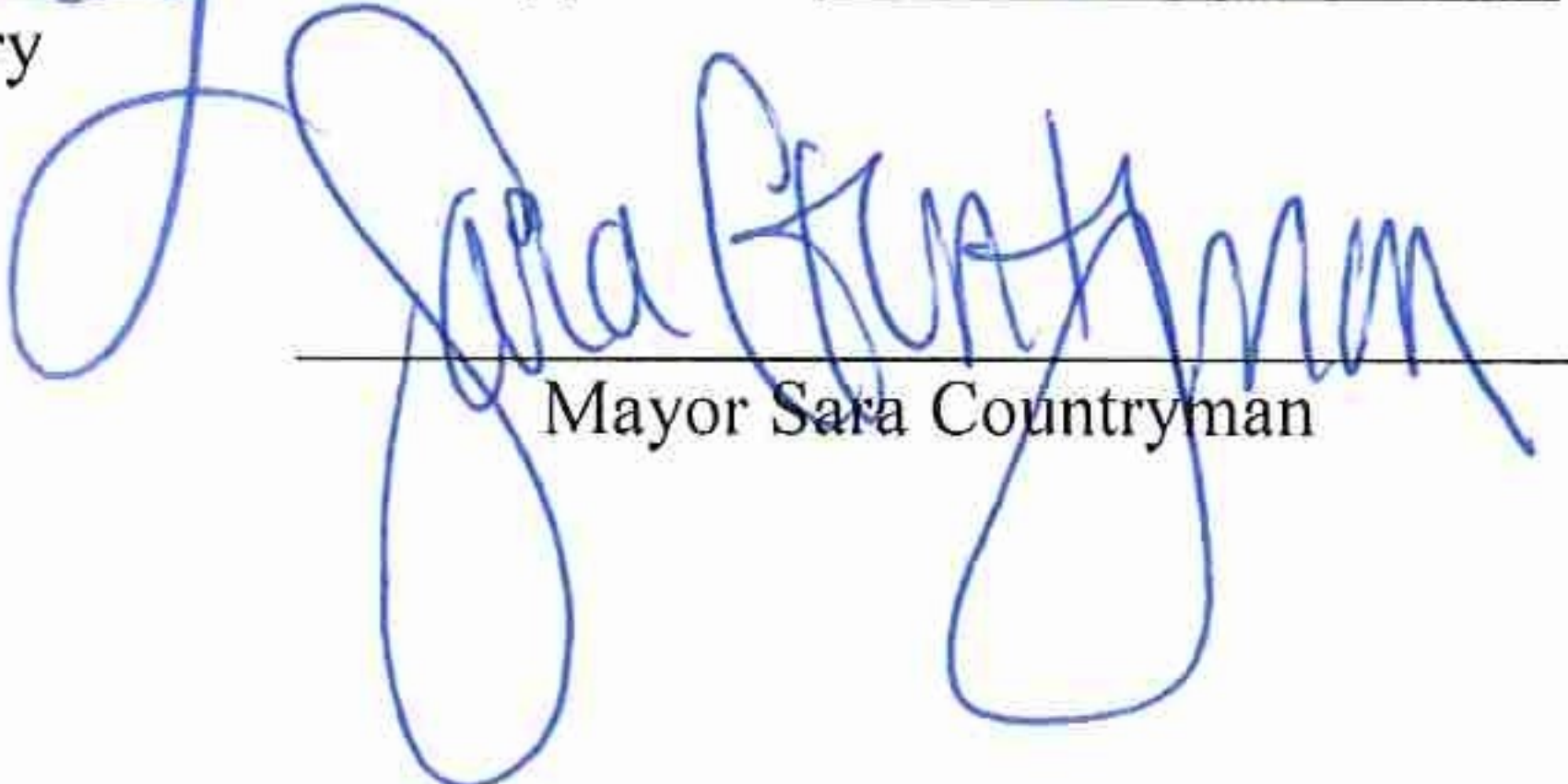
COUNCIL INQUIRY:

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

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 8:00 p.m. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Submitted by:  Date Approved: 07/10/18
Susan Hensley, City Secretary


Mayor Sara Countryman

