

MINUTES OF PUBLIC HEARING and REGULAR MEETING

February 27, 2018

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present: Kirk Jones 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
 Ed Shackelford City Engineer
 Chris Roznovsky City Engineer

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING(S):

Convene into Public Hearing:

Mayor Jones convened into the Public Hearing at 6:04 p.m.

1. **Public Hearing** - for the purpose of reviewing the need to continue City of Montgomery Ordinance 2015-03, Juvenile Curfew Ordinance, Codified in Division 2 of Chapter 62 of the

Code of Ordinances of the City of Montgomery, Texas in accordance with Section 370.002 of the Texas Local Government Code, and to determine whether the City shall abolished, continue or modify the ordinance.

Mr. Yates advised that this is related to the Curfew Ordinance with the hours presently set for, 11 p.m. – 6 a.m. Monday through Thursday and 12 midnight – 6 a.m. Saturday and Sunday. Jon Bickford asked what age determined a juvenile. Mr. Yates advised that a juvenile is under the age of 17.

There were no comments made by the public.

2. Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:06 p.m. and reconvened into Regular Session.

Convene into Regular Meeting

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 Jones stated that since there were a lot of people that wanted to speak on the same topic, he asked that the comments be brief, and if they are longer than three minutes, he might ask the speaker to conclude.

Mr. Jim Foster, with Style Craft Builders, advised that they were having a problem with parking at 103 Brock's Lane, which is directly across from the Montgomery High School. Mr. Foster advised that Emma's Way is at the entrance to their neighborhood, and they are having a problem with parking by the students along Emma's Way. Mr. Foster said that it is difficult for their customers, delivery vehicles, 18-wheelers, and cement trucks, which a lot of times can't get in and out of the neighborhood because of the vehicles parked by the intersection. Mr. Foster said they have spoken to the local police

about the matter, and they have done the best that they can, and asked if they could get some relief by way of “company parking only” sign or some sort of limitation for school parking at that location. Rebecca Huss asked if Mr. Foster was speaking of residents or tradesman. Mr. Foster said that it would be both, along with potential customers. Mr. Foster said that they have about 20 homeowner’s living at the location. Mr. Foster said he was concerned that the large trucks are going to hit the cars that are parked there and he will have students and their parents coming in saying that someone hit their car. Mr. Foster said that his answer is going to be that the trucks can’t get in and out, and they are having to drive over a culvert, and he is concerned that it will become damaged. Mayor Jones asked Mr. Foster to make an appointment with Mr. Jack Yates, City Administrator so that they can discuss the matter, and if there is something that City Council can do in the future, they will. Mr. Foster thanked City Council and said that he would make an appointment to see the City Administrator.

Mr. David Potter, a City resident who lives on Old Plantersville Road, said that he has been to City Council before with this same problem, regarding the high school kids speeding on Old Plantersville Road. Mr. Potter said that he has spoken to a number of the police officers, the Chief, and Officer Bauer, several different times. Mr. Potter advised that there was an accident Saturday morning and a kid was seriously injured. Mr. Potter talked about how the kids speed anywhere from 50 to 100 miles per hour, and they are drag racing on the other side of the City limits, where the City can’t do anything. Mr. Potter said that the reason the speed bumps are out here is because he came in complaining about the speeders. Mr. Potter said that they need some help from the City and somebody to do something or they are going to be burying some children, because it is terrible. Mr. Potter said that they are in and out of the ditches, and said that Mr. Muckleroy and his crew had put up posts to keep the kids out of the ditches, and they just go further down the road. Mr. Potter said that the boy that was in the accident had two other kids with him, but the boy that was driving was hurt the most, and said that he does not want to see this anymore. Mr. Potter said that he knows the City has a budget to meet, but he is talking about having an officer out there for 30 minutes in the morning and 30 minutes in the evening. Mr. Potter said that the Chief of Police feels that they have enough speed bumps, but said that they have two right here in front of City Hall together, and asked why they can’t put more out there, and have an officer out there patrolling there in the morning and afternoon. Mayor Jones thanked Mr. Potter for speaking regarding this matter. Mr. Potter said that they need to increase the fines for the tickets, because he does not want to see this happen again. Mayor Jones said that they were going to work on getting something done.

Mrs. Julie Davis, City resident, advised that she was a neighbor of Mr. Potter, and she has nine children, and her children all have to wait at that bus stop at the corner of Womack Cemetery Road and Old Plantersville. Mrs. Davis said that the kids driving in the ditch and running into the fences is a real problem.

Mrs. Davis said that she has some suggestions for solutions that she thinks might work. Mrs. Davis said that the speed bumps that are in front of City Hall have a much higher peak on them, but the three that are across the railroad tracks, are flat and does not slow them down. Mrs. Davis said that they should invest the same amount of money and time in building the other speed bumps in the back as they did with the ones in front of City Hall.

Mrs. Davis said that if the City retrenched the ditches and made them drain the water, then the kids could not run their cars through them without causing serious damage to their cars. Mrs. Davis said, furthermore, she thought that they could move the stop sign at Huffman by the mobile home park to Womack Cemetery and Old Plantersville, to force all of the traffic to come to a complete stop, and give an additional ticketing offense. Mrs. Davis said that moving that stop sign would force them to slow down before they hit the straight away. Mrs. Davis said that these are functional solutions that they have not tried, and she felt that they could do better as a City, not just for her kids, for the other kids at the bus stop.

Mr. Michael J. Kammerer, who resides on Womack Cemetery Road, advised that his property borders Old Plantersville Road, from the Ag Barn to Womack Cemetery Road, and down Womack Cemetery Road, and he is here to support the last two speakers. Mr. Kammerer said that the wreck with the young boy happened in front of his gate, and he is very familiar with what the high school kids do between 3:00 – 3:30 p.m., and he is not sure what the solution is because he knows it is County property. Mr. Kammerer said that he would encourage the traffic control department of the City of Montgomery to get with the traffic control department of Montgomery County and see if something can be done. Mr. Kammerer said that if they want contributions to put up speed bumps, call him, he would be happy to contribute, because that is probably the only thing that will slow them down. Mr. Kammerer said that any ideas that the two groups could put together would help that situation and thanked City Council for their time.

Mayor Jones thanked everyone for their comments and suggestions and said that City Council and City staff take this very seriously and will come to a resolution. Mayor Jones said that it might be inconvenient for everyone, but they have got to slow the kids down.

CONSENT AGENDA:

3. Matters related to the approval of minutes for the Regular Meeting held on February 13, 2018.
4. Consideration and possible action regarding road closures for the Antiques Festival from 12:00 noon on May 3rd through Sunday at 10:00 p.m.

Rebecca Huss moved to approve the Consent Agenda as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action on Department Reports.
 - A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates reviewed his activities for last month. Mr. Yates advised that he is now working on the line item budget review.

Mr. Yates spoke about the reckless driving issue and said that writing citations has not worked as a deterrent. Mr. Yates said that he believed that an effective method of deterrent would be the loss of parking and driving privileges by the school. Mr. Yates said that this would require agreement from the school. Mr. Yates advised that this could be structured so that after two tickets the student would lose their parking privileges for one month, and after three tickets they would lose their parking privileges for that semester, plus any reckless driving that resulted in an accident, the parking privileges would be lost for the semester. Mr. Yates said that the school would administer this policy, not the City. Mr. Yates also reported that he had reviewed traffic calming books, and how other cities have faced these issues. Mr. Yates said that he also spoke with the Police Department and the Montgomery ISD Police Department, and they all agreed that these would temporarily alleviate the problem, but would not solve the issue until the students are motivated to drive within the law. Mr. Yates said that he had also spoke to the Municipal Judge about raising the fines, and the Judge

advised that he could not do that according to the law. Mr. Yates said that he also asked the Judge about requiring traffic safety school for each citation issued, but that is not possible because if the person pays for the citation they would not come before the Judge. Mr. Yates said that it was his recommendation to strengthen with our existing forces the areas involved to include substantial citation writing and to formally write the school a letter requesting the parking privileges withdrawal and pointing out the safety of the student involved, and inviting them to a City Council Meeting to discuss the matter.

John Champagne said that he appreciated the passion of the City Administrator and said that he was not sure of some of the suggestions that were made, which he felt was something for the City Attorney and Chief of Police to discuss in terms of the law. John Champagne said that as far as he was concerned, having raised six children, the elephant in the room is government is not in charge of raising children, so he can only harken back to the way he raised his six children and the way that he was raised, and the last thing that he wanted was a speeding ticket, because when he got home it was not going to be fun. John Champagne said the problem that they are having right now, in his opinion, is that they are not getting support from the families of individuals that are breaking the law. John Champagne said that it was very easy to throw money and government at the problem, but that is not the answer. John Champagne said that they could make Old Plantersville a washboard and place a speed bump every five feet, but it all boils down to respect for authority and respect for doing what is right, which they can't instill, as a government. John Champagne said that they can hire more police officers, they could do a lot of things, but then the next meeting they will have is how the budget is busted. John Champagne said that before they jump out and start doing all these things, let's and think about how we can do this effectively, and no one is better able to do this than the Police Department, so he would put the onus on them along with, staff, City Council and the citizens. Mayor Jones stated that the school could do a lot.

Rebecca Huss said that they did get some good suggestions, such as moving a stop sign. Rebecca Huss said that her contention has always been that the biggest problem is the intersection at SH 105 and FM 149. Rebecca Huss said that if they can get an

improved traffic signal that can deal with the 15 to 20 minute intervals, there won't be a backup all the way to the High School and it will be quicker to stay on SH 105. John Champagne said that he felt that Rebecca Huss had a good idea, and said that there are a lot of good ideas, but he was just saying to look at the matter in balance, and said that there is more to it than the City not performing. John Champagne said that a citizen had recommended that all these busses take the loop as opposed to coming straight through the City, which would alleviate a lot of the traffic.

Jon Bickford asked if they needed a task force to look into this matter. John Champagne said that, in his opinion, they had a badged task force. Rebecca Huss said that they have lacked interaction with MISD, but they should make sure that it is a priority that they work together. Jon Bickford said that if they can put together a plan and recommend some options. Mr. Yates said that he thought that he could approach the MISD Superintendent. John Champagne asked if it would make more sense for the Chief of Police to contact MISD. Rebecca Huss said that if the MISD Superintendent is going to be contacted, it would be more the City Administrator as the City representative. John Champagne said that Mr. Yates has a lot on his plate, and asked for a good reason for the Police Chief, who is an expert on this matter, not to interface with MISD, because in his mind, it is a natural thing. Mr. Yates said that he thought that would be alright.

Rebecca Huss asked about the Home Grant, which has been approved, and asked about the timing and applications, and other related information. Mr. Yates said that the City received notification regarding the award of the Home Grant about 4-5 days ago, but said that the grant is not for a specific amount, it will allow the construction of 11 homes. Mr. Yates said that the intention is to have the press release by April 1, 2018 and by the end of April they will open it up for applications to be submitted. Rebecca Huss asked about the timing between the applications being submitted to award and build. Mr. Yates said that it would take about two months, because each application will be reviewed by Grantworks and as soon as someone qualifies, the building can begin.

Jon Bickford said that he would like to keep the discussion of the speeding on Old Plantersville on the agenda for the next two or three meetings, until there is a plan in place. Mr. Yates advised that they would place that item on the agenda.

Mr. Yates showed the plaque for the Employee of the Year and Police Officer of the Year, which will be posted in the front lobby of City Hall. Mr. Yates advised that the first recipient of Employee of the Year in 2016 was Joe Belmares, Police Lieutenant, and in 2017 City Secretary Susan Hensley. Mr. Yates advised that in 2016 the Police Officer of the Year was Chris Carswell, and in 2017 Lt. Miguel Rosario.

Mr. Yates spoke about the late payment Utility door hangers, and said that the subject was whether or not to continue to put the door hanger on each of the 40-50 late notices per month. Mr. Yates said that he reviewed the utility ordinance and it does not mention door hangers, therefore, he felt that it was something that the City Administrator could stop. Mr. Yates said that since the City has been doing this practice for so long, he wanted to speak to City Council before he took any action. Mr. Yates advised that presently 40-50 residents receive a door hanger, which is out of 620 utility customers, and according to the staff, approximately 35-45 of the late notices are to the same residents each month. Mr. Yates said that it takes eight hours of utility billing clerk's time to prepare the door hangers, and then approximately two hours of public works time to post the door hangers. Mr. Yates said that combining that monthly cost is approximately \$360, including gas for the vehicles. Mr. Yates said that of the 40-50 door hangers, only three - eight per month actually get turned off. Mr. Yates said that the City sends a late notice to everyone who has not paid their bill by the 23rd of the month. Mr. Yates said that he if they could stop sending out the door hangers, he would write a summary of this information in the City Newsletter, with the start date in April. Mr. Yates said that his question to City Council was whether they would want to continue the door hangers. The consensus of City Council was to discontinue the practice of the late notice door hangers.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council. Mr. Muckleroy stated that he was in favor of getting rid of the door hangers. Mr. Muckleroy advised that they had a pretty busy month, with the

removal of Christmas decorations and putting them in storage. Mr. Muckleroy advised that he had attended the Water and Sewer Facility Tour with members of City Council and the Planning and Zoning Commission, and Montgomery EDC. Mr. Muckleroy said that they had almost completed the fire hydrant tagging project. Mr. Muckleroy stated that he had attended the one year inspection walk through at Terra Vista and Waterstone Section Two. Mr. Muckleroy advised that for the month they had seven water taps, six sewer taps, 13 water leaks, which were mainly freeze related and zero sewer stoppages. Mr. Muckleroy stated that the docents reported that they had 489 visitors and they provided 32 tours of Fernland.

Rebecca Huss asked if the water leaks were on the City side of the meter. Mr. Muckleroy advised that some were, and said that they had prepared a full winterization list for the parks after going through the freeze, so they have a written list of every facility that lists which ones to completely turn off and which ones to isolate the irrigation systems only, but even then they still lost a couple of back flow devices that still had a little bit of water still in them.

John Champagne asked if there was any revenue reported for Fernland. Mr. Muckleroy said that he did not know the answer to that question, because the revenue goes directly to Fernland, Inc. Mr. Yates advised that all the donations, accepted by the Park go to the Park. John Champagne asked about the fees being charged for the photographers. Mr. Yates said those fees go to the City.

- C. Police Department Report – Chief James Napolitano presented his report to City Council. Chief Napolitano advised that Lt. Belmares and he had looked at the tickets, and since last year they have generated 144 tickets in the area along Old Plantersville Road coming from the school, and of those 144 tickets, most were while school was in session.

Chief Napolitano reported that they have quarterly meetings with the Sheriff's Department and local law enforcement, where they talk about what issues they are dealing with, and overall in Montgomery County speeding is less than 20 percent compliant by the entire population. The Chief stated that SH 105 is less than 10 percent

compliant to the 55 mph speed limit, and said when the children see their parents speeding, they don't see why they should have to obey the law. Chief Napolitano said that the only problem they have is manpower, because they are talking about one officer on the shift writing tickets on Old Plantersville Road. The Chief stated that if the officer makes one stop, 20 cars will go by before he can finish generating that ticket.

John Champagne asked if that cost would be exorbitant for the additional coverage. Chief Napolitano said that he has asked the night officer to stay over an hour and a half, and then in the afternoon the supervisors and he go out and try to issue citations where they can. John Champagne said that the Chief indicated 20% obey the speed limit coming through Montgomery, so they are talking about breaking the speed limit, and if in fact 80% of the citizens chose to break theft, drug and domestic abuse laws, and asked if the Chief could handle that case load in the City. The Chief advised that he could not handle that amount. John Champagne asked what would be the next step. The Chief advised that it would be marshal law and a complete change of social obedience. Chief Napolitano said that he and the Lieutenant discussed blocking the traffic and then slowly driving them in a parade to SH 105, which will just make them go faster when they get to SH 105. Chief Napolitano said that there are a lot of other things that they have to protect the City from, other than just speeding, but they will concentrate on those two time periods.

Jon Bickford asked how they can stop the repeat offenders. The Chief advised that the police officers are on the front part of the process, and then it is how the judge and the prosecutors handle the case, because a lot of times they will come up with a way of dealing with the ticket.

Chief Napolitano said that two weeks ago in Florida there was an incident with an active shooter at a high school. The Chief stated that one week prior to the Florida incident, he received a phone call from one of our officers who had received a call from a detective with the Conroe Police Department about several messages on social media regarding a young man that was threatening Montgomery High School. Chief Napolitano said that he immediately contacted Chief Runnels at MISD, and they came up with a plan. The Chief said that they wanted to immediately act and go to the home

of the person making the threats to confront the parents and the child, but MISD decided not to, so they had to wait for him to board a bus and then take him from the bus. The Chief advised that they sent several of the Montgomery Police Officers over to the school that morning, just in case he was able to get to the school, and in the mean time they had four DPS troopers, three constables and two Sheriff's deputies, in addition to himself, to respond at the school as quickly as possible. Chief Napolitano said that they do work with MISD and they understand that this is a social problem. Chief Napolitano said that his department and MISD plan during Spring Break to do a table top exercise and learn from each other on where they can go and communication, because that is a large school to handle an active shooter on the school grounds. Chief Napolitano said that their MISD and Precinct 1 partners are very willing to get together. John Champagne asked if the Chief had given a conference in relation to this topic. Chief Napolitano said that he has given several conferences regarding this matter, which is what he and Chief Runnels want to do. John Champagne said he appreciates Chief Napolitano's experience.

John Champagne said there was one other thing that has been on his mind ever since it came up during the budget. John Champagne said that they give department heads budgets to run their departments for the year, and they put department heads in place because they consider them to be, at the very least, somewhat effective and efficient at running their department. John Champagne said that he remembered the Chief requesting long rifles, and asked the Chief how many long rifles he had requested. The Chief advised that he had requested four long rifles. Chief Napolitano stated that the reason he had requested the long rifles was in case they had an incident where they are being shot at, it would keep them in a safer environment versus being within 25 yards of someone. John Champagne said that he was not a police officer, so for him to tell the Chief no, he would have to have a reason, which he has none, which is why they hired the Chief. John Champagne said he did not understand why when the Police Chief with 25 years of experience requested something, and asked if it was refused. Chief Napolitano said that his request went to the City Administrator, and it just kind of stopped there. John Champagne said that if they need a long rifle in a couple of weeks, and they don't have one, who would be accountable. Chief Napolitano said that right now all the officers are carrying their own personal rifle in their vehicle.

Chief Napolitano said that man power wise, they have Officer Hernandez out and they are not sure when he will be back on duty, and Officer Bauer went over to Court, so they are trying to put things into perspective and trying to get enough people to handle the kids out there, which is taxing on them to get done, but they are working on it as hard as they can.

Dave McCorquodale said that it sounds like the Chief has a good relationship with the MISD Chief of Police, but asked how the hierarchy works with regard to traffic control, if they are in the City limits. Dave McCorquodale asked if the Chief went to MISD and said they need to change how they are letting cars out or they need to adjust how they are doing the circulation of traffic, and asked if that would be something the City would request from MISD, or would the City have the ability to say how they want the process. Chief Napolitano said that they have some control, but they have to work with MISD because the students are coming out of private property and turning onto a City or County maintained road, so for the City to tell them that they can't make a right hand turn, we would have to give them a good reason.

Chief Napolitano advised that the part of the road where the young man had the accident was a straight away, and the City officers are the first ones to arrive. Officer Bracht performed life saving measures until the ambulance arrived. Mayor Jones asked if the accident was located outside the City. Chief Napolitano advised that the accident occurred just outside the City limits.

T. J. Wilkerson asked the Chief if he ever had to use the reserve officers. Chief Napolitano said that they do, but they work during the week at their regular jobs, so they mostly work on the weekends. John Champagne asked whether the City is utilizing all of their offices to the fullest extent. The Chief advised that all of their officers are being used, but Officer Bauer has been assigned to the Court and he is not part of the Police Department anymore. Chief Napolitano advised that today he worked it with the Court so Officer Bauer could work with Officer Thompson on traffic. John Champagne said that he is not a professional Police Officer, nor a City Administrator, but at first blush, it would seem that a fully accredited and professional Police Officer

would be better utilized on the street. Mr. Yates stated that he had instructed the Chief of Police before that he could use Officer Bauer. John Champagne said that secondly, he asked the Chief to explain to him how the Lieutenants work shifts and how they are utilized. Chief Napolitano advised that they are utilized to cover both sides of their shift, so each Lieutenant will have a day and night shift, and right now a swing shift. Chief Napolitano said that because Officer Hernandez is out, they just have the day and night shift and the Lieutenants become the swing shift officer, so they are out six hours with the day shift and six hours with the night shift.

- D. Court Department Report – Mrs. Kimberly Duckett, Interim Court Administrator, presented her report to City Council. Mrs. Duckett said that they had a large court night with 148 cases on the docket, but they were out by 10 p.m. Mrs. Duckett said that they have been implementing more court dates so citizens can get a speedy trial. Mrs. Duckett advised that she is in the process of auditing the warrant files to obtain a better result for the revenue, because warrants are collected several different ways, to make sure that all of the warrants are accounted for. Mrs. Duckett advised that this month and next month the court will be participating in a warrant roundup, and since the mail out of the notices, people have been calling and taking care of warrants they had forgotten about. Mrs. Duckett said that they have had calls on warrants from as far back as 2004. Mrs. Duckett said that the judge and the prosecutor have been very pleased with their success on court nights. Mayor Jones said that they have heard good things from the Judge.
- E. Utility/Development Report - Mr. Yates presented the report to City Council. Mr. Yates advised that they had \$119,665 collected in utilities, \$13,747 for permits, with six residential permits and five commercial permits. Mr. Yates reported that Memory Park used 15,000 gallons of water, which is an all-time low. Mr. Yates noted that there are 626 active water accounts. Mr. Yates said that the Community Center brought in \$600. Mr. Yates said that this is all handled by Autumn Redman who is doing an excellent job.

Jon Bickford said that he did not know what is happening at other homes, but he is looking at the water usage that shows 18,000 gallons at the Community Building,

15,000 at Memory Park, 15,000 gallons at City Hall, and he said that they have not had a dry day in months. Jon Bickford asked if the sprinklers are going off whether it is raining or not. Mr. Muckleroy advised that for City Hall, that is the entire building, not just irrigation. Jon Bickford said that he was looking at the one that states Community Center – Irrigation. Mr. Muckleroy advised that it feeds the Community Center rest rooms and the irrigation system, there are two meters at that location. Rebecca Huss said that also includes the building in the back of the Community Center. Jon Bickford asked if the sprinklers are going off whether it is raining or not. Mr. Muckleroy advised that they are not, they all have rain sensors. Jon Bickford said that the rest of the water is decimal points. Mr. Muckleroy said that the only meter that does not have an actual building associated with it, is Memory Park, but Memory Park does have water for the fountains so the pumps do not run dry and there are other factors. Mr. Muckleroy said that the entire irrigation system has been turned off at Memory Park for two weeks. John Champagne asked about the disparity between November, December and January for City Hall. Mr. Muckleroy advised that it was a lot less because during the first two months irrigation was involved. Rebecca Huss said that November was very dry.

- F. Water Report – Mr. Mike Williams, with Gulf Utility presented his report to City Council. Rebecca Huss commented that there were a lot of alerts for the month. Mr. Williams said some were due to rain storms and power issues, but nothing major. Mr. Williams said they did have one incident when a tree came down on Lift Station #4. Mr. Williams reported the daily effluent trend was 3.956 million gallons, and the daily peak flow was December 20, 2017 at 277,000 gallons, with an average daily flow of 127,600 gallons.

John Champagne asked about the break points. Mr. Roznovsky advised that at 75% percent they need to initiate engineering and financial planning, and at 90% percent they need to initiate approvals. Mr. Williams advised that at this past month the City was at 32% percent, which has gone down 2 million gallons since the leak was repaired. Mr. Williams reported that all effluent samples were compliant for the month of January.

Mr. Williams advised that they sourced a total of 5.943 million gallons of water and sold 5.369 million gallons of water, bringing them to 93% accountability. Mayor Jones asked why they were running Well #2 so light. Mr. Williams advised that they are running both Well #2 and Well #3 light to get their usage out of Well #4. Mr. Williams said that they had a 72% return of water to the treatment plant from water sold.

- G. Engineer's Report – Mr. Chris Roznovsky, City Engineer, presented his report to City Council. Mr. Roznovsky advised that they will be sending out the Joint Mobility Study in PDF form and updating the books. Mr. Roznovsky stated that CVS Pharmacy has their plans ready for approval, subject to the encroachment agreement that is on the agenda tonight. Mr. Roznovsky said that their meeting with TxDOT and HGAC regarding the possibility of including Lone Star Parkway on the Transportation Improvement Plan, was a good meeting and they will be following up with some planning numbers to come together and meet in six months with TxDOT. Rebecca Huss asked what good came of the meeting. Mr. Roznovsky advised that they are open to the idea of including Lone Star Parkway. Mr. Roznovsky said that TxDOT will continue on with a follow up meeting to discuss the information. Rebecca Huss asked about as they develop along Lone Star Parkway, does that mean that instead of having a driveway every 40 feet they might need it to be every 60 feet in order to be within what H-GAC or TxDOT wants to see. Mr. Yates said that it is more likely there would be an access to Lone Star Parkway about every 1,500 feet rather than every 60 feet, and there would be interior driveways to connect to serve the interior properties onto Lone Star Parkway, and is something that the Planning Commission will be hearing about. Mr. Yates said that the early thoughts is to use the Mobility Plan for all the accesses to Lone Star Parkway. Mr. Yates said that TxDOT pointed out that they did not want to build a bypass that would just become another commercial area. Mayor Jones said, as clarification, if TxDOT were to take over Lone Star Parkway, then they could direct the big truck traffic off of SH 105 and onto the Loop, which would really affect mobility. Mr. Yates said that there are roughly 2,000 trucks going through the City each day on SH 105.

John Champagne asked about the FM 149 sanitary sewer cleaning, and whether the contractor was assumed to have damaged Lift Station #3. Mr. Roznovsky said that was

correct, in the time that they were working and during the process they were cleaning sludge and debris out of the lines and at that same time, and immediately after the work, the lift pump failed due to debris entering the pump. Mr. Roznovsky said that Lift Station #3 was in an area that they were not supposed to be working, and it was not in their scope of work, they had picked up a wrong map. Mr. Roznovsky said that there were a lot of red flags, and said that the damages, if they are found liable, is \$8,000 and their contract amount is around \$18,000. Mr. Roznovsky advised that they have not been paid anything. Jon Bickford asked if it was not normal that when they are televising that they would dislodge things. Mr. Roznovsky said that it was normal to dislodge things, but they are supposed to have strainer baskets at the end so that they are pulling all the debris and they have a vacuum truck. Mr. Roznovsky advised that when they get to the last section before the Lift Station, they are supposed to shut down the pumps, pull everything in and then clean it out and then turn the pumps back on so they are not sucking in debris.

Rebecca Huss said that something that came up during the Facility Tour was that they need to approve the Lift Station requirements that are built by developers, and asked if that was something that they need to formally put through as a process to have compatible equipment. Mr. Roznovsky advised that they have discussed that information and the idea right now is that since they are already putting in the specifications for Lift Station #1, they will just use that information as the model.

- H. Financial Report – Mr. Yates presented the financial report to City Council. Mr. Yates advised the following balances: General Fund - \$158,000, Construction Fund - \$2.8 million dollars (\$2.2 of that amount is the Texas Water Development Board Funds), Debt Service Fund - \$691,000, which they paid \$250,000 of bonds during this past month, so next month it will be less, MEDC - \$613,000, Utility Fund - \$276,000. Mr. Yates advised that the total of all funds is \$5,570,826, but most of that is already spoken for by the budget.

Mr. Yates said that General Fund is over in revenues and has a surplus of \$167,497, which is very good considering they are just entering the property tax season. Mr. Yates said that part of that surplus of funds is because sales tax is doing quite well, and said that they are approximately \$250,000 for the entirety of the City for the General

Fund and the MEDC Fund. Mr. Yates said that they have collected \$1,095,000 for the year, and last year they were at \$750,000.

Rebecca Huss asked if they were setting aside money that we owe Kroger for the 380 Agreement, because we owe them after one year has passed, but they are going to do that in arrears, so she would assume that they will want a lump sum, so it is premature to be happy about the revenues when it is already promised. Mr. Yates said that they are setting it aside by not spending the funds, but they did not have a line item, which they might want to do in the future by amending the budget. Rebecca Huss said that right now while they have the bridge construction going on they have a lot of money that they are trying to avoid borrowing, but once that is all paid for then they might need to set up a special account for both the City and MEDC to start setting that money aside in an unrestricted account. Mr. Yates said that the funds won't be spent until next November, but they should still be setting it aside. Mayor Jones said that they can be accounting for the funds as they go, then they will always know where we stand with them and our own General Fund. Jon Bickford said that it would be easy with two line items. Mayor Jones asked if Mr. Yates could make that happen. Mr. Yates said he would take care of that.

Mr. Yates said that the Utility Fund was over in revenues and down in expenses and has \$78,578, which is down considerably from last month, because the GRP and the utility projects maintenance was transferred to Capital Projects this past month, so the Utility Fund should be back up next month to over \$100,000.

Jon Bickford moved to accept the Departmental Reports as presented. John Champagne seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, RENEWING THE JUVENILE CURFEW ORDINANCE CODIFIED IN DIVISION 2 OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, IN ACCORDANCE WITH SECTION 370.002, OF THE TEXAS LOCAL GOVERNMENT CODE, AFTER A PUBLIC HEARING ON THE NEED TO CONTINUE THE ORDINANCE; CONTINUING THE JUVENILE CURFEW ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN

CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; DECLARING COMPLIANCE WITH TEXAS OPEN MEETINGS ACTS; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

John Champagne moved to set the effective times for the Curfew Ordinance as Monday through Thursday, to be moved back to 10 p.m., and weekends at 11 p.m. John Champagne said that they have a whole bunch of high school kids that are driving crazy during the day, so what are they doing at night, and he, personally, wonders why a kid under 17 has to be out after 11 p.m. Jon Bickford asked to confirm that the times during the week are 11 p.m. and on the weekends it is 12 midnight. Rebecca Huss said that the time does not count if the kids are coming home from work. Chief Napolitano said that is also for church and school projects.

Jon Bickford seconded the motion.

Discussion: Mayor Jones clarified that the motion is to change the times to 10 p.m. - 6 a.m. Monday through Thursday, and 11 p.m. to 6 a.m. for Friday and Saturday, therefore making the times one hour earlier. John Champagne said that was correct. John Champagne asked if this will make the Police Department's job any harder. Chief Napolitano said that it would not. John Champagne asked if it would make the job any easier. Chief Napolitano said that it would not make it easier, it would just give them one more reason for a probable cause stop. Dave McCorquodale said that he was not in favor of moving the hours, because to him the ordinance is well intentioned and he could get behind the curfew ordinance, although somewhat reluctantly because he sees it as the government trying to regulate a parent's job. Dave McCorquodale said that he recalled that he just heard John Champagne say that was a bad idea earlier. John Champagne said that was a big difference. Dave McCorquodale said that he could not imagine a reason why he would want to be out at that hour, and he did not pretend to know everyone, and so he could not support an arbitrary hour. John Champagne said that this does not expend dollars, it doesn't expend man power, and it just does the job. Mayor Jones said that it was government taking away freedom. John Champagne said that it was not taking away freedom, they can ride with their parents anywhere they want. Dave McCorquodale said that he did not really understand the point of it to begin with. John Champagne said that he did not see where a kid under 17 needs to be on the highway after 11 p.m. Dave McCorquodale said that he thought that was fair, but him telling everyone this is the way you are going to do

it, and asked if John Champagne saw a lot of reason for that time of night. John Champagne said that he was going by the culture, and the culture is out of control as far as he was concerned. Dave McCorquodale said that is fair enough, which is why he felt that there was no rational reason to vote yes. T.J. Wilkerson asked if they get tickets for being out after curfew. Chief Napolitano said yes. T.J. Wilkerson asked if he and his wife were sick and they sent their son or daughter to the store, they could get a ticket for going to the store to get medicine or something after 10 p.m. Mayor Jones said that was correct. Jon Bickford asked if that was a common sense issue. Chief Napolitano said yes. Rebecca Huss said that she did not think that there was any request for the Police Department to change the ordinance in response to any particular problems. Mayor Jones asked if the way that the ordinance was presently written was a problem. Chief Napolitano said no, the Police Department will enforce the ordinance however City Council writes it. Chief Napolitano advised that they will ask them where they are going or where they have been to make sure what they are doing, they can also check the MISD event calendar to see when there is a school event. Chief Napolitano said that they talk to them and find out if they are going to the store for their Mom or Dad, and advised T.J. Wilkerson that they probably would not write a ticket, but it is the officer's discretion as to whether they write the ticket. Dave McCorquodale asked if it was only a school sporting event that would allow them to be out after curfew. Chief Napolitano advised that it would be school or work. Dave McCorquodale asked if the juvenile was at the softball tournaments and baseball tournaments where the games and the practices are stacked up until 10:30 p.m. – 11:00 p.m. Dave McCorquodale said that some of the tournaments are in College Station and if they live in Conroe, they could receive a citation for driving after 11:30 p.m. if they were inside the City. Chief Napolitano said that they would not get a ticket if they were coming to or from a school function. Dave McCorquodale said that the tournaments are not a school function, it is club ball. Chief Napolitano said that it would be a citation to talk to the Judge, so they are not having to pay the ticket, they have to come in and explain that information to the Judge and/or Prosecutor. Dave McCorquodale asked how many citations are issued for curfew violations as it stands now. Chief Napolitano said he would have to look into that information. Jon Bickford asked if the Police Department did five or ten per year. Lt. Belmares said that it might average one to two per month, and a lot of that depends on the scenario that the officer is engaging. John Champagne asked if kids were in Memory Park at 12:30 a.m. Chief Napolitano said that as they had discussed earlier, that might just be a reason for a stop. Jon Bickford said that he had to believe that it is common sense, if a 17 year old kid is out at 10:30-11:00 p.m. and he or

she is on the way back from a league game and they are dressed in a uniform, no problem, he doubts that the officer would waste their time writing a ticket. Jon Bickford said that on the other hand, if the kid smarts off, he might get one to teach him a lesson.

After discussion, the motion to adopt the Ordinance with modifications to the time failed with the following vote:

Jon Bickford – Aye

T.J. Wilkerson – Nay

John Champagne – Aye

Rebecca Huss – Nay

Dave McCorquodale – Nay

Rebecca Huss moved to adopt the Ordinance as originally presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

7. Report regarding the Land Use Plan.

Mr. Yates advised that the Land Use Plan was adopted in October or November by the Planning and Zoning Commission. Mr. Yates advise that the Land Use Plan is a guide for the City's broad intention of how they intend to treat development. Mr. Yates said that the reason the Plan is being presented to City Council as an informal Land Use Plan, rather than formal, is because the City has not adopted a Comprehensive Plan. Mr. Yates said that according to the City Attorney the law requires a Comprehensive Plan to be adopted before a Land Use Plan can be adopted as a formal document. Mr. Yates said that nothing requires the City to have a Land Use Plan. Mr. Yates said that what got him and the Planning and Zoning Commission thinking about this was they kept getting requests for higher density variances, and he suggested to the Commission that they look at it as an entirety before a development comes into the City. Mr. Yates said that the Commission met for three or four months and he has also shown the map to Mr. LeFevre, Mr. Cheatham and two other developers in the City. Mr. Yates said that he would like City Council to consider the information.

Mayor Jones said that this was an opportunity for the Planning and Zoning Commission to do some planning versus just zoning or approving plats. Jon Bickford asked if the high density residential was 9,000 square feet, which is less than ¼ of an acre, and said that this has a lot of high density housing on the Plan. Mayor Jones said that the idea was that the high density

would stay away from the core of the City and be closer to major roads. Rebecca Huss said that this was something that they had talked about before if they want a diversified City, particularly economic and age wise, you need to have homes that are starter homes for people who are teachers or starting out their career, because those people bring a lot to our community. Rebecca Huss said that they need to have good neighborhoods for those people to move into.

Dave McCorquodale said that one of the things that stood out to him was the industrial area along SH 105, and said that he was not sure that if he was picking a spot for industrial to be located in the City, he would pick our main corridor for that location. Mr. Yates said that was one of the areas that the Planning and Zoning Commission is thinking about changing. Mayor Jones asked if that was the Mann property next to Spirit Industries, because that was rezoned at the request of the property owner. Mr. Yates advised that was what Carol Langley had advised. Jon Bickford asked if all they are doing is voting to accept this map. Mayor Jones said that they were not voting on this, Mr. Yates just wants City Council to think about the information. Mr. Yates said that he would wait at least two meetings before bringing it back to City Council.

8. Report regarding Fernland Historic Park by Mr. Mike Newman and Directors.

Mr. Newman introduced Ms. Patti Stafford, Treasurer, Mr. Gareth Westlake, Vice President to City Council, and Larry Daspit, Docent at Fernland. Mr. Newman commented on several projects that the Board has planned, adding that all of this would be brought before City Council before they enact the projects, as follows:

- 1) Eagle Scout Project – to archive the Arnold-Simonton House artifacts;
- 2) Joint project with the City, MEDC and the Fernland Board, regarding bushes along the east fence for decoration; and
- 3) A current project is to skirt the Simonton House because they have a lot of animals that get underneath and pull the insulation down. Mr. Newman said that the costs will be minimal and he has help. Mr. Newman said that they also have had some material donated from the old Post Office downtown.

Mr. Newman said that the Crane Cabin has some severe rot in the logs on the north side, which he has brought up to the City Council before, and to replace it would be very expensive. Mr.

Newman said that they are going to work with someone to get an epoxy mixture and then paint it. Mr. Newman said that Mr. Westlake is trying and find someone to do the work, because he is not experienced in that type of work. Mr. Newman said that it could be costly to repair. Mr. Newman said that since the City has taken over doing the maintenance at Fernland, they would have to come forward with that. Mr. Newman said that one other thing is the old log wagon that has deteriorated, and is a danger to the children that climb on it. Mr. Newman said that he tried working with Sam Houston State, who owns it, but he has not had any response from them, other than initial comments from the Director, that indicated he would like to get the wagon and let the prison restore it, but he has had no other contact. Mr. Newman said that Mr. Billy Ray Duncan has a man that he thinks might be willing to restore the wagon. Mr. Newman said that if Mr. Duncan is not capable of finding someone he is going to haul the wagon off, because it is beyond his capabilities and he can't find anyone locally to work on the wagon.

Mr. Newman reviewed the financial statement, showing the income, and the balance at this time at \$9,807.62. Mr. Newman stated that all the funds come from donations and tours, and they are pretty good stewards of the money, which they have been doing for seven years.

Mr. Newman said that Dana Bickford had prepared a spreadsheet that shows the attendance at Fernland as:

<u>Visitors</u>	<u>Tours</u>
2015: 2,115	2015 - 397
2016: 7,837	2016 - 469
2017: 8,277	2017 - 498

Mr. Newman stated that the docents work from 11 a.m. to 5 p.m., six days a week, if it is not raining. Mr. Newman advised that most of the traffic is after 5 p.m., when the photographers come into the park. Mr. Newman said that the numbers that they have for the photographers are greatly estimated.

Mayor Jones asked about the project that is presently going on at the Park with the sidewalks. Mr. Newman said that he did not know a thing about that project. Mr. Newman said that Mr. Yates gets all their literature, they have no secrets out there, and they have projects come in and he either meets with the City and advises what they plan on doing as a Board, present

drawings and get the City's approval. Mr. Newman said that what troubles him about the sidewalk, which he is pleased that they are going to have sidewalks out there, but the problem that they have is that they did not want to build a sidewalk to the bell tower after watching the erosion. Mr. Newman said that they had erosion at the Jardine Cabin at the bottom northeast corner of the Cabin where the foundation was going to wash away, if it does and it shifts on that building, he does not know how they are going to fix it, because those cabins do not take a lot of abuse, as old as they are. Mr. Newman said if they would have told him about the sidewalk, he would have been able to talk to them about it and maybe convince them that they could save some money by not spending it there. Mr. Newman said that he understands that the City is very busy, and he is not; he is retired but all it would have taken would have been a phone call and he would have met them out there and helped get them support. Mr. Newman thanked the City for their support. Mayor Jones thanked everyone for attending.

9. Consideration and possible action regarding Samdana Investments, L.P. variance requests regarding the front building line, along SH 105, from 35 feet to 25 feet, and the rear building line from 15 feet to 10 feet along John A. Butler Street, all within the property bounded by John A. Butler Street to the north and SH 105 to the south and Prairie Street to the East located at 20998 Eva Street, Montgomery, Texas.

Mr. Yates advised that the Planning and Zoning Commission recommended approval of this variance. Mr. Yates said that a question of traffic circulation is critical in consideration of this variance. Mr. Yates said that, as shown on the variance sketch map, the access off of SH 105 can only serve the Samdana property and prevents access to SH 105 for the property west of the Samdana property. Mr. Yates said the donut shop proposed a one-way driveway going around their building so that anyone that wanted to get to the property west of Samdana would have to go around the donut shop and then turn right, instead of left to get back onto SH 105 access that is shown on the sketch map. Mr. Yates said that there is one curb cut now, and TxDOT would have to be requested to get another curb cut, and it was his guess that TxDOT would not allow the curb cut, nor would he recommend another curb cut. Mr. Yates said that this was brought up last night at the Planning and Zoning Commission Meeting and Mr. Samdana said that he had an agreement with the property owner to the west that he would always allow access to their property. Mr. Yates said that he has requested a copy of the agreement, but has not received it as of yet. Mr. Yates said that no matter what the agreement says, the City should not be placing that property, to the west, where they would be cutting off

their access to SH 105. Mr. Yates said that he does not know if the property owner to the west knows about the variance request, or how it would affect their property. Mr. Yates said that this could probably all be worked out by repositioning the building on the triangular wedge shaped lot. Mr. Yates said that as it is, he certainly would not recommend the variance tonight because he thinks that it will require more planning.

Mayor Jones said that it looks like there are several possible solutions and maybe it will require moving the building. Mr. Yates said that he was suggesting that City Council table this item so that they can review the information and make some changes. Mr. Yates said that they plan on moving the barbershop building that is on the property, and then constructing the new building, where the sketch plan has it roughly on the old pool business location. Mayor Jones said that it would be about a month before they would see these plans again, because Planning and Zoning does not meet until next month. Mr. Yates said that it might be a good idea to send it back through the Planning and Zoning Commission.

Dave McCorquodale asked about the survey notes, and asked why the survey has a 10-foot building line in the rear and a 25-foot building line, and asked if that was a request from the surveyor. Mr. Yates said that was the owner drawing that information in as if it were approved. Dave McCorquodale said that his point is to ask if they all understand where the building lines were, and that there was nothing on our end where we would accidentally add something somewhere. Mr. Yates said that no, when they bought the property it did not. Mr. Yates said that they have a section in our ordinances, under variances, where it specifically points out for an irregularly shaped lot that a variance could be considered by City Council. Rebecca Huss said that Dave McCorquodale was asking whether they were relying on something else when they purchased the property. Dave McCorquodale said that his question was whether they understood, to the best of our knowledge, because we were not part of the transaction, that there was nothing on the City's side that would have alluded to not having a 35-foot building line in the front.

Mr. Roznovsky advised that this is unplatted property, so the platting requirements come in to this because they have to plat the property. Mayor Jones said the buildings that were sitting there were not meeting the requirements of the ordinance. Mr. Roznovsky said that was correct, and because they were so old, the property was never platted. Dave McCorquodale

said that what bothers him is that they don't have any say over what happens on SH 105, and if a lane widening occurs in the future, his concern is that getting the property even closer than 35-feet to SH 105, which is not much, he is not sure that would serve the public interest. Mayor Jones said that he would say the present right-of-way on SH 105, they have all of it right now, and the State would have to acquire a bunch of right of way if they wanted to widen the road.

Mr. Yates said that if City Council tabled the item, he would have Mr. Roznovsky meet with the Samdana's and their architect to work up something that would allow access to the property to the west and still give them an opportunity to build their building. Dave McCorquodale said that, as a design professional, he would offer the suggestion that looking to put a square into a triangle is going lead to issues, so maybe there is a design solution that would allow adherence to the ordinance. Mr. Yates said that he was thinking more of a rectangular building. Jon Bickford said that they are not going to be able to design the building here. Dave McCorquodale said that he would like to talk about it, because he is not going to talk about it until it comes back to City Council. Mr. Yates asked if Dave McCorquodale would rather have their building further off of SH 105 and closer to Butler Street. Dave McCorquodale said that if he had to pick the lesser of two evils, yes he would pick closer to Butler Street.

Dave McCorquodale asked Mr. Foerster, in a situation such as this, where there is an unplatted tract that has access to an adjacent property, would that fall under what would be a prescriptive easement or is there something that would compel them to offer that access, when the other tract has two frontages on two other streets. Mr. Foerster said that as long as the Samdana tract has access to a public street, an adjoining property owner has no obligation to provide them any additional access. Mayor Jones said that he thought they could get plenty of access, either property, from Butler Street, but that is not where the traffic is coming from.

Rebecca Huss moved to table this item until they come back with re-engineered and revised architecture. T. J. Wilkerson seconded the motion.

Discussion: Mr. Samdana advised that he brought the agreement that they have with the other property owner. Mr. Samdana said that in the agreement, when they purchased the property, the size of the property was what they were worried about, and in the agreement they provide ingress and egress for both property owners. Mr. Samdana said that when they did that the

architect drew different plans, with the arrow to the right, but there is enough room for two cars. Mayor Jones asked Mr. Yates if that changes the situation or do they still need to table this item. Mr. Yates said that he scaled it out and he thinks the right hand turn lane is after you go thru the line, on the south side of the building there is 12-13 feet, which is borderline for two vehicles. Rebecca Huss said that she felt either way, they will need to have the engineer look at the information. Rebecca Huss said that if our engineer feels it is okay, they can come back at the next meeting without going to the Planning and Zoning Commission, since they have already approved the variance. Mayor Jones asked Mr. Samdana to work with Mr. Yates and Mr. Roznovsky, and they will bring it back in two weeks, unless they have to redraw, then it would be a month.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding an Encroachment and Maintenance Agreement by and between the City of Montgomery and Montgomery SH 105 Associates, LLC regarding a storm sewer line easement located at FM 2854 and SH105.

Mr. Roznovsky presented the information, stating that they have a storm sewer that is encroaching on a public utility easement and crossing existing water and sewer lines on multiple locations. Mr. Roznovsky said that after review of the plans, they do not have any issue with this because they have the property coverage and, per this agreement, they would be responsible for it if the City has to repair the line or storm sewer, they would have to do the repair and replacement of that storm sewer pipe. Mr. Roznovsky said that one thing to note is CVS is requesting from the City that the City be responsible for a portion of the paving that is within the sanitary sewer easement. Mr. Roznovsky said the property owner is requesting that in the event of planned improvements of water taps, utility extensions and planned replacements, the City would be responsible for the paving and for any emergency repairs the property owner would be responsible for the repairs. Mr. Roznovsky said that the main issue with this is the City does not typically include paving in an encroachment agreement anywhere else in the City. Rebecca Huss said that it was pretty rich since most of the taps will be coming from their development, so she would not feel the need to pay for any damage for their developer doing taps for them to make money. Mr. Roznovsky said the line that is being

extended will serve CVS, and will also serve the development to the south and FM 2854 if needed. Rebecca Huss said then it would not be for the rest of their development.

Mayor Jones asked what the real likelihood of the City having a planned tap or disturbance. Mr. Roznovsky said the nearest likelihood is that the development across the street would have to make a tap for the HEB property, and they have already been told that they have a requirement that they will be extending water and sewer along their frontage anyway, so HEB will not be tapping onto that line. Mr. Roznovsky said that more than likely no pavement will need to be removed or replaced. Mr. Roznovsky said that these are brand new PVC lines, so replacement would be done in the next 40-50 years, and there is technology today for trenchless methods to do that replacement that would not disturb that pavement. Rebecca Huss said that she would say to tell them no, it is highly unlikely the City will not set any precedent and writing illegal agreements or signing their illegal agreement. Rebecca Huss said that she did not really see any point in doing that, they are already getting a good 380 Agreement, they can risk a corner of their parking lot, which the City is doing as a favor anyway. Mr. Roznovsky said that the request is to approve the agreement, subject to not including the pavement or including the pavement so that they can move forward with getting the agreement finalized and in place so that they can continue with their development.

Rebecca Huss moved to proceed with the Encroachment and Maintenance Agreement subject to the proviso that they do not enter into an agreement to allow them any additional qualifiers about planned maintenance and any repairs to their encroachment parking. John Champagne seconded the motion.

Discussion: Jon Bickford said that he understood it to be that they accept the agreement for the storm sewer line easement, but no other considerations. Mr. Roznovsky said that there is a sign agreement also. Mayor Jones said that was under a separate agreement. Ms. Hensley said that the agreement was subject to not include repair of the pavement or any other repairs or any other provisions or qualifications. Mr. Yates said that it was Section 3(c) that would need to be removed from the proposed agreement would take out all the provision and accomplish what City Council is trying to do. Mr. Roznovsky said that Section 3(c) in the pack, was written before the additional language was put into the agreement, but what CVS was originally trying to propose was that they put all the responsibility for the pavement on the property to the south

of them. Mr. Roznovsky said that what they are proposing is to take the pavement out completely from the agreement. Mayor Jones said that will work.

The motion carried unanimously. (5-0)

11. Consideration and possible action regarding LDC gas rates and recovery charges billed to their customer.

Mr. Foerster reviewed the information that he had presented two weeks ago, and said that he presented his evaluation of the situation with the relocation sur charge for the gas line that LDC had requested, which was \$20,527. Mr. Foerster said that under the Utilities Code, the Railroad Commission has original jurisdiction for any such request outside of an incorporated city, but also under the same Code, a city, and in this case, the City of Montgomery, has original jurisdiction for any relocation request for a relocation sur charge for customers within the city. Mr. Foerster said that, as he understands it, and he has had conversations with the Railroad Commission Attorney on a couple of occasions, and with Mr. Mike Swain, LDC, who he will say, they had some very good very positive discussions, and he thanked him for that. Mr. Foerster said that his original position was based on his reading of one of two appeals from LDC, one was for the incorporated area, which would go directly to the Railroad Commission, and the second appeal was to the City of Montgomery for the unincorporated area. Mr. Foerster said that the first request that was denied back in February 2017 to the City Council was premature, because they had not completed the work, which they acknowledged, and they needed to finish the project and get their final costs, which they did by June 2017. Mr. Foerster said about that same time in June, LDC had gotten permission from the Railroad Commission, based on all the information that they provided, that the relocation costs were acceptable and justified. Mr. Foerster said that in a docket number 10637 related to unincorporated areas, the Railroad Commission approved the relocation costs, in the Examiner's letter, which he read to be in order, it specifically said that any additional relocation costs could not be submitted for pending or future claims as to cities or other incorporated municipalities. Mr. Foerster said that he read that to mean that they had already gotten the approval for the entire \$20,527 for the unincorporated area and they could not come back to the City. Mr. Foerster said that he had a conversation a few days later with the Railroad Commission Attorney and she was not quite sure because it had never happened before, so she went back and spoke to the Railroad

Commission Examiner and also several councils of the Railroad Commission. Mr. Foerster said that last Friday he sent the attorney another email and he got an email from the Railroad Commission Attorney, who indicated that based on her inquiry, the Railroad Commissioner's Examiner's Order prorated that entire cost to the customers in the unincorporated areas, but it did not deal with the balance of the cost on the prorated basis, based on all the customers that are served by LDC, and did not address what happened in the incorporated areas. Mr. Foerster said that the attorney indicated that it was their opinion that the request to the City Council in June 2017, which was the second request, would have addressed the issue of whether or not LDC was entitled to collect the balance of \$20,527 from the customers in the City. Mr. Foerster said the statute for the Utility Code is a little different when it comes to relocation costs which is what they have here, the Utility Commission, in Section 104.112, says there has to be one of five findings or more from the City Council that denies the relocation costs or its in effect automatically approved. Mr. Foerster said that his problem with that, which he communicated with the Railroad Commission Attorney, is City Councils and local attorneys that represent City Councils do not know that one little rule unless it is brought to their attention, they are not going to find one of those five findings. Mr. Foerster said the Railroad Commission, in a pre-hearing conference on August 15, 2017, said that LDC did not need to be before them because by law the City of Montgomery did not find one of the five findings, therefore you do not have to appeal it to the Railroad Commission. Mr. Foerster said that according to the Railroad Commission Attorney, it appears that the Railroad Commission's position is that the LDC is only charging its customers in the unincorporated areas the pro rata share of the total relocation costs, and LDC has the authority and the obligation to request a similar pro rata sur charge to the City of Montgomery for the balance. Mr. Foerster said that because the City of Montgomery did not find one of these five findings in the Utilities Code, it automatically is effective. Mr. Swain said that Mr. Foerster has very accurately described what has been going on, and said that he will say that he has been in the utility business a long, long time, and he did not know that the City was required to state one of those five findings until the Railroad Commission pointed it out to him. Mr. Swain said that he and Mr. Foerster have had several very productive conversations, and he thinks that they are in the process of getting something worked out that will at least allow this confusion to not be a source of friction with his company and the City and its residents. Mr. Foerster said that unless some arrangement is made for refunding or stopping the surcharge by LDC, it appears that it will go forward.

John Champagne stated for the record, the five reasons listed under Section 104.112 of the Utility Code:

- 1) The relocation was not necessary or required. John Champagne said that the fact that LDC wants it paid back to them is obvious that it was not required, but we did not state it as such. Mr. Foerster said that was correct.
- 2) The cost of the relocations were excessive or not supported. John Champagne said that it was not supported by the City of Montgomery.
- 3) The utility did not pursue reimbursement from the entity requiring the relocation, if applicable.
- 4) The surcharge is unduly discriminatory among customers or classes of customers located in the service area; or
- 5) The period over which the relocation costs are designed to be recovered is less than one or more than three years.

Rebecca Huss said that she thought that a case could be made that the first reason was met, and the line was built on spec before a road, that they all knew was coming, was designed and the subdivision was designed. Rebecca Huss said that the line was built that way so that they could save money, but it was a business choice to take that risk knowing that things could work out badly. Rebecca Huss said that instead of taking the risk on their own books, they put it on the pocketbooks of our residents.

Mayor Jones asked Mr. Foerster whether LDC attempted to collect those damages from the County, who was the one building the road. Mr. Foerster said according to records that he saw, they reached out to the two developers and they declined, which was part of the package that the Railroad Commission sent to the City. Mayor Jones said that perhaps they approached the developers and they said no, but he did not know if they approached Montgomery County and they said no, but by default the citizens of Montgomery are stuck with the bill, because we are the last ones left to ask, and we are the ones where the money changes hands. Mr. Foerster said that they are stuck with their pro rata share of the bill. Mr. Foerster said that the unincorporated customer's payment has already been approved by the Railroad Commission. Mayor Jones said that does not change the amount that our citizens are paying. Mr. Yates asked about them filing a withdrawal for their motion of reimbursement. Mr. Foerster said that they had a pre-hearing conference in August with

the Railroad Commission, which the City was not notified of and they do not know what happened. Mr. Foerster said that Mr. Swain has advised him, and he has no reason to disbelieve him, but at the hearing the Railroad Commission said LDC you do not need to be here, they did not have any appellate jurisdiction because there was no finding by the City of one of the five findings, so LDC is entitled to the relocation costs.

Mayor Jones asked about the City's appeal process. Mr. Swain advised that the City of Montgomery Meeting Minutes were attached to their filing with the Railroad Commission, because they had to include the decision denying the request by LDC in the filing of the appeal. Mr. Foerster said that was probably where the Railroad Commission looked at the minutes. Mr. Foerster said that there were two sets of minutes, one was the February 2017 Meeting, and in those minutes Rebecca Huss raised the question as to why the City should pay because this should be the cost of doing business, and LDC laid the line before the road was planned, which City Council denied that action by a vote. Mr. Foerster said that however, that request was premature because the cost had not been completed and so when they were completed in May they submitted to the City Council, and having discussed the matter at the February meeting, at the June meeting there was very little discussion, it just stated that City Council was going to deny the charge.

Mr. Yates said that when they met with Mr. Corley on November 16, 2017, and they asked Mr. Corley why he was able to charge the City and he said that he could not remember. Mr. Yates said that Mr. Corley emailed him the next day and told him that they were able to charge the City because the five reasons were not given when the rate was denied. Mr. Yates said that if there was that much thought put into that information, it would seem that, ethically, Mr. Corley could have called and advised him, since Mr. Corley knew that he was using his letters as guidance for City Council. Mr. Yates said that he would think, ethically, that Mr. Corley should remove the charges from the customers.

Mayor Jones asked Mr. Foerster where the City stands legally. Mr. Foerster advised that he has not heard back from the Railroad Commission attorney, and said that he had not done any research to find out if at this late date the City has any opportunity to appeal the decision, and if they did it would only go back to the Railroad Commission, and the Code. Mr. Foerster said that he would continue to look into the information. Rebecca Huss said

that Mr. Yates comment about the ethics of this whole thing, and said that Mr. Randy Burleigh has been looking into some things, and there have been improper charges and LDC has decided to charge or not charge unilaterally, so she would like to see the actual numbers behind what they are actually charging people. Rebecca Huss said that she would like to know the absolute penny that they are required to pay, and if they are unable to come to some sort of appeal to ethics, she would like to know for sure that our citizens are not paying a penny more than they have to. Jon Bickford said that LDC has already started charging the City.

Mr. Swain stated that he and Mr. Foerster had some preliminary discussions today that may result in this matter being resolved in a way that is mutually satisfactory. Mr. Swain said that he would like the opportunity to follow this through to see how it turns out. Mr. Swain said that if City Council still feels like they need to take additional action after that time, or perhaps approve an agreement that they have made, perhaps that is the best way to resolve this matter.

Mayor Jones said that if Mr. Swain and Mr. Foerster are still talking, and Mr. Foerster is still fact finding, City Council will wait for the next report. Jon Bickford asked whether LDC was still billing citizens for the recovery costs. Mr. Swain advised that the costs have been fully recovered and the sur charge is done. Mr. Swain said he thought that the January bill was the final charge. Jon Bickford asked Mr. Burleigh if that statement by Mr. Swain was correct. Mr. Burleigh advised that he did not know, because he did not know what they are charging people outside the City. Mr. Burleigh stated that he wanted to ask Mr. Swain, as to whether he had worked for the Railroad Commission for six years. Mr. Swain said that he had not worked for them.

Mayor Jones said that Mr. Foerster and Mr. Swain will keep talking and Mr. Foerster will report back to City Council. Mayor Jones thanked Mr. Swain for his recommendation. Mr. Yates said that it is costing the City to have Mr. Foerster look into this, and it is a sizable cost. Jon Bickford asked that they try to get this matter wrapped up this week and possibly have some resolution that will help the City. Jon Bickford said that he felt that it was clear, with all due respect, there is a lot of very frustrated people regarding what LDC is billing and their rates, and they can't let this continue to go on, they have to look for

alternatives because they are getting pushing into a corner. Rebecca Huss said that Mr. Foerster will be able to write an article for TML informing all the people about the five findings, and will be the most informative legal article of the year. Mr. Foerster said that he would gather, with his experience representing cities for 30 years, and they are all served by gas service, that this is probably the first time that they have had a relocation sur charge. Jon Bickford said that based on everything else that has happened, this does not surprise him, so he would keep pursuing this matter.

Jon Bickford moved to table this item. John Champagne seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding a proposal from Jones|Carter for the preparation of a City Geographic Information System (GIS).

Rebecca Huss said that she thought that this had been presented previously to City Council, and they had requested proof of other bids and other cost structures, etc. Mr. Roznovsky said that they had presented the information to City Council previously. Mr. Roznovsky advised that they had met with Jon Bickford and discussed how the information was written and some of the notes, to make sure that there were no gray areas that would come about for the City. Mr. Roznovsky said that they addressed all the issues with Jon Bickford and they have one more note to add to the copy of the proposal. Mr. Roznovsky said that they do not use proprietary software for their system, but if they should in the future they will provide the City with written notice prior to implementing it on their system, which is the one change that they will make. Mr. Roznovsky said that they had added some information regarding clarification of the actual software that is used, and added the note that it is not proprietary software.

Jon Bickford said that ESRI who provides the GIS platform is actually a customer of his, and he spoke to them regarding this information. Jon Bickford advised that this is a hosted solution, and if it goes away they can switch hosts. Jon Bickford said that all he wanted to make sure of, and he did, that they have a path to switch cloud service should they change engineers in the future. Mr. Roznovsky said that in the event that Jones|Carter is no longer the City Engineer, they would provide the City plenty of portable media, all files, documents, graphics, etc. for the City's use with any commercially available software.

John Champagne scanned through the pricing for the services, and asked if they had obtained pricing from any other entities to do this service. Mr. Yates advised that they had not. John Champagne asked why not. Mr. Yates said that he felt that Jones|Carter already had such a head start as far as having the information together, that he did not go out for bids. Jon Bickford said that what they are talking about, without engineering services, for the software services, is \$300 per month, which is \$3,600 per year, and it is going to cost more to go out and get bids, evaluate them and everything else. Jon Bickford said that they were not going to get a better price. John Champagne asked if the total ticket on this is \$3,600. Jon Bickford said that the software was \$3,600 per year, and said that they only have one engineering firm, so no matter whose GIS software you get, unless you get another engineering firm to deploy the software, you are going to pay a large number. John Champagne said that there would be support costs to implement this project. Jon Bickford said that there is a \$20,000 fee to get all the initial data loaded into the system.

Jon Bickford moved to proceed with the proposal as presented at the \$600 per month rate, subject to the notation that if Jones|Carter added proprietary software, they would notify the City. Dave McCorquodale seconded the motion, the motion carried with 4-Aye votes and 1-Nay vote by John Champagne. (4-1)

13. Consideration and possible action regarding the replat of Mitchell Corner.

Mr. Roznovsky presented the information, stating that this was the old Iron Works and Apache Machine Shop, the corner between Plez Morgan, Liberty and Lone Star Parkway that was originally platted as one Reserve, and now they are splitting the ownership between the two businesses and dividing the property into two Reserves. Mr. Roznovsky said that this was approved by the Planning and Zoning Commission last night.

Rebecca Huss asked, based on what they had discussed before, with the H-GAC and changing Lone Star Parkway into a TxDOT road, would changing this plat change any sort of existing driveway situation. Mr. Roznovsky said that potentially it could change and there would have to be a consolidation, but they are a ways out from knowing what the proposed road would be. Rebecca Huss asked to confirm that it would not make sense to start planning for that process now. Mr. Roznovsky said that he would not think so because right now it is still an idea that

is years down the road, but when they meet in six months they should have a better understanding of what it is going to look like going forward.

Dave McCorquodale moved to approve the Replat of Mitchell Corner, as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

14. Consideration and possible action regarding City property tax exemptions for Homestead, Over 65 and Disability Classifications.

Mr. Yates advised that this was a request from the Tax Appraiser/Collector asking whether the City wanted to change the Homestead, Over 65 and Disability Tax Exemptions. Mr. Yates said that last year City Council approved \$6,000 for Over 65 and \$12,000 for Disability. Mr. Yates said that if they left the exemptions the way that it is currently it would be \$2,244 for 90 people that are Over 65, and \$299 for 6 Disabled residents.

John Champagne said that he had looked the information over, and in light of our inability to keep costs down on utilities and some other things, and the pressures on retired people on fixed incomes, he made the following motion:

John Champagne moved to suggest \$20,000 for the Over 65 Exemption, which will come out to \$7,480 per year or \$83.11 per person; and \$35,000 for the Disability Exemption, which comes to \$872 per year, and \$145.33 per person.

Jon Bickford asked if those figures were for the entire year, John Champagne said that was correct. John Champagne said that would be \$7,480 as a negative or debit to the City for all residents over 65, which includes 90 people at this time. John Champagne advised that for Disability he is suggesting \$35,000, which comes to a total of \$872 per year, and \$145.33 per person which includes six people at this time. John Champagne said that he did not do anything for the Homestead Exemption.

T.J. Wilkerson seconded the motion.

Discussion: Dave McCorquodale asked if there had been any research on where the City stood in relation to the other municipalities in the area. John Champagne said that he had and that

information was included in the Agenda Pack. John Champagne said the City of Montgomery was above some cities and below others. John Champagne said the demographics in this City fall heavily towards this group, and this is what is going to build this City by the way, unless you think otherwise. Mayor Jones asked if John Champagne was referring to over 65. John Champagne said that the demographics are for over 50, which is who is going to spend the money, and if the cost of living to live in this City continues to do what it is doing, it is going to be horrible. John Champagne said that this pittance he is suggesting, is like offering them a night out to have dinner, maybe.

Rebecca Huss said that she did not disagree that tax relief is helpful, but she felt that some of the things that they have been doing with the budget, as well as the revenue increases that they have been seeing can be spread among all of the residents with more broad based taxing decrease that they could address during budget season, so that they see what their expenses look like, as well as the revenues before they make a decision that only benefits two groups. Rebecca Huss said that she was hoping to see, during the budget season, tax reduction for everyone, going from .4155 to a lower number. John Champagne said that if they look at our tax rates relative to other cities, we are pretty good. Rebecca Huss said that does not mean that they can't do better. John Champagne said that he totally agreed. Rebecca Huss said that was something that past City Councils have done quite well to rein in and have made some very smart decisions. Mayor Jones said that he liked what Rebecca Huss said about possibly lowering all taxes, but is there a special desire to help these two categories, because they are already doing it a little bit. Rebecca Huss said that she had to disagree with John Champagne, in terms of cities, and said the population can grow, and there is a lot of civic involvement from that category of people for sure, but our teachers, health care workers, employees at the stores and a lot of those people are younger. Rebecca Huss said that she felt a vibrant city has all sorts of people of all age and wage levels, and so she felt that they should really be looking to attract every level of age rather than saying that the City is only looking at the over 50 crowd. John Champagne said that all he was saying was the demographics are quite clear. John Champagne said that this town seems to attract people that want to get out of the millennial rat race. Rebecca Huss said that they could give a more effective tax relief by lowering the rate, than by increasing the exemptions. John Champagne said that he totally agreed with that statement, but he would keep the exemptions right where they are when they lower the tax rate. Jon Bickford said that he did not know when they were going to be able to lower the tax rate,

if they can do this right now, and said that seven of the 14 surrounding cities have exemptions for over 65 that are at least \$20,000 or more, and seven of them are \$25,000 or more, so to him, \$8,000 gets 90 people a nice break, and if he could put another \$8,300 in taxes back to everyone who is 65 and over and not disabled, he said why not do it tomorrow.

Rebecca Huss stated that she believed that her family qualifies this year under disabled, because her husband is 60% disabled, categorized by the VA as a 22-year military veteran, so asked if she needed to recuse from voting on this item. Mr. Foerster thanked Rebecca Huss for bringing that to his attention, and said he thought that it would be appropriate for her to do that. Mayor Jones asked what would happen when they start talking taxes and budget, they will all be affected by that. Mayor Jones said that T.J. Wilkerson would have to recuse himself because he is over 65. Mr. Foerster said that he did not think that it would make that much difference, and he senses that this item would pass with or without the vote of Rebecca Huss.

Mayor Jones stated that the motion was to approve setting \$20,000 for the Over 65 Exemption and \$35,000 for the Disability Exemption.

The motion carried with a vote of 4-Ayes, and Rebecca Huss recused herself from voting.

15. Buffalo Springs Bridge and Houston Street Report by City Engineer.

Mr. Roznovsky advised that the Bridge was moving along, but the recent weather had caused some delays. Mr. Roznovsky stated that they met the contractor on site today, and he is going back with a different plan to divert the water, but said he is still on schedule and he hopes to have the first piece of the concrete wall in next week. Rebecca Huss asked if the City paid extra for the re-excavation. Mr. Roznovsky said that it is a one-time lump sum for the temporary dams, so it is not every time that he does that, if it fails the first time it is one him to repair it, and the same with the excavation. Mayor Jones asked if they were going to pour something on the bottom of the channel. Mr. Roznovsky said the bottom of the channel will have riprap because FEMA did not want them to include concrete on the bottom, so they have broken concrete on the bottom. Mr. Roznovsky said that there will be concrete walls on either side and under the bridge that have relatively large footings on them, and under the water level

will be the concrete riprap to protect from future scouring and erosion. Mr. Roznovsky said that they did have Pay Estimate Number 1 for \$127,000 that came in this month.

Mr. Roznovsky reported that on Houston Street and as of today, the County has moved on site and put down the initial coat over the street which should be paved and complete by the end of the week.

16. Consideration and possible action regarding appointment of Citizen Advisory Board.

John Champagne said that this item is a result of a conversation that he had with Mr. Burleigh, although they have brought it up a number of times. John Champagne said that this is a citizen populated advisory board, that would be an ad hoc, pro bono group, that would assist the Montgomery City Council, and by extension the City Administrator in fostering a culture of excellence as it pertains to all functions of the City. The advisory board would serve at the pleasure and direction of the Montgomery City Council, and will be charged to evaluate, review, analyze, formulate, discuss and forward well-developed recommendations on critical issues, not day-to-day things or projects, to the City Administrator. In general, the advisory board will be looked upon to report their recommendations based on best practices for services and/or projects that reap the greatest value to the citizens of the City at the most competitive cost.

John Champagne stated that Mr. Yates had brought up some questions in his report, and he understood that Mr. Yates did not have much time to review the information. John Champagne stated his answers to the questions.

Mr. Yates stated that if this board were to act as Randy Burleigh has regarding looking into and analyzing water rates and billing that sounds fine. John Champagne said that the advisory board would look into whatever the Council agrees upon and would like them to investigate. John Champagne said that typically it would have to do with utilities, which is efficiencies and operation, equipment utilization, establishing best practices, such as standardizing whenever possible, etc.

Mr. Yates asked if the board that would serve as a pre-Council reviewer of all items. Mr. Yates asked, how often the group would meet. John Champagne said that they would meet at the direction or request of City Council.

Mr. Yates asked if this would involve additional engineering time/cost to present information to the group. John Champagne said that it would not cost more, as he sees it, the board will be ad hoc in nature and he envisioned, with the Council's approval initially directing the board to access the efficiency of the City's utilities and the value realized for the City's contractors that are related to these services. John Champagne said that would be his first request that they get on.

Mr. Yates asked if they would keep minutes for this public board, such as the Building Code Committee. John Champagne said that if it benefits the function of the board, brings value to the City and give information that is needed, then he would assume they would want to keep some record of the meetings so they could report to the City Council and the City Administrator.

Mr. Yates asked how the information would be distributed to the group, in a packet, such as the City Council Agenda Pack. John Champagne said that email is a good choice for him. John Champagne said that this is an advisory board, and with the existing laws that govern this type of information sharing, which he would defer to the City Attorney, he would hope a simple written report could be included in City Council Packets. John Champagne asked Mr. Yates how he was receiving the information from Mr. Burleigh. Mr. Yates said that he received the information by email from Mr. Burleigh.

Mr. Yates asked who would pick the subjects for review by the advisory board. John Champagne said that the City Council or the City Administrator would pick the subjects. John Champagne said that he personally advocate a number of committees, this is just one of them. John Champagne said that they could vote on putting the advisory board together, but he would submit for future evaluation, Mr. Randy Burleigh being the Chairman, and they have some people that have volunteered and said that he personally would ask that not more than four people, including the Chairman be on this board.

Mayor Jones said that he thought that this was good idea and he knew that Mr. Burleigh has been priceless to our City as far as the contributions that he has made, and his expertise. Mayor Jones said that when John Champagne says ad hoc, to him that means temporary. John Champagne said that ad hoc to him means specific. Mayor Jones said that in this case, to him, if City Council wanted to form a committee that could be a different membership every time, the nature of the subject and who has the expertise, so it is not a standing committee of those people, it is whoever they appoint at that time. John Champagne said that he is not saying this is an omnibus, and encompasses the entire City, although the group, with information to be provided about their expertise, will lend itself to where they want to direct this board. Mayor Jones said that once their purpose is completed, they would be disbanded, and then they would reform another one for the next issue. John Champagne said that it would be at the pleasure of the City Council.

Mayor Jones asked John Champagne if he had a subject that he wanted them to work on. John Champagne said he wanted them to work on water and sewer right away. Mayor Jones said that City Council could form an ad hoc committee for the purpose of studying water and sewer, and maybe more specific something within water and sewer, because that is a big subject. John Champagne said that with this type of beginning you might get information where that will lead you into doing these things.

Rebecca Huss said that she thought that this was just a really big bite with something that they have hardly had any time to digest, and there are a lot of questions and a lot of work for staff, with the open ended aspect of it and she was a little uncomfortable with the idea of a committee that is already set up with potentially a plan already in place without any kind of guidelines from the rest of City Council. Rebecca Huss said that she would really like to have some time and look at the information to really narrow the focus as to what questions they would really like to get answered, because she did agree that they have gotten amazing results from the citizen boards that they have. Rebecca Huss said that they do have some boards that have answered questions or done work; they have seen the land use plan that the Planning and Zoning Commission put together, the blinking sign ordinance and that type of thing in response to specific questions and requests from City Council. Rebecca Huss said that she felt that coming up with a more focused, targeted plan that is more inclusive of the rest of City Council, in terms of input as to members.

John Champagne asked if Rebecca Huss has received information from Mr. Burleigh regarding water and sewer treatment. Rebecca Huss said that she received his comments about the billing department. John Champagne asked again if Rebecca Huss had received information in regards to the process, the costs and the functions of water and sewer from Mr. Burleigh. Rebecca Huss said no. John Champagne said that he was under the impression that Rebecca Huss had received that information. Mayor Jones said that he agreed that the focus should be pretty narrow. Dave McCorquodale said that he would be interested to know what the Oak Ridge North board looks at.

John Champagne said that they have citizens that are willing to take an active role in making the City better, all he wants to do is to give them an avenue to do that and influence decisions that are made by this City Council every two weeks. John Champagne said that whether they make those decisions based on their recommendations is up to City Council. John Champagne said that if he could incorporate individuals that are competent and know what they are talking about, and can give the City Council a different perspective, for instance, on engineering suggestions that are coming down the pike; he is not an engineer so that is the motivation. John Champagne said that if they want to put their fingers on it and everybody wants to review the information that is their pleasure. Dave McCorquodale said that he would like to know a little bit more about it, and he would like to hear from Mr. Foerster because it sounds like we are forming something very formal, because this is appointing a board to act on behalf of the City Council, so he would like to know if they are required to keep minutes and who keeps those minutes. Mr. Foerster stated that he could answer that question, and said that if it is a committee whether it is an ad hoc committee or a permanent committee the Texas Open Meetings Law would require that the meeting notice be posted 72 hours before the meeting and minutes taken. Mr. Foerster said that the transparency is important.

John Champagne said that they had a water committee that did not go through any of that. Rebecca Huss said that the Capital Improvement Advisory Committee did post agendas and take minutes. John Champagne said that when they drilled the well and they looked at the SJRA they did not go through that. Mr. Foerster said that he was not around back then, so he could not speak for that time. Jon Bickford said that he was slightly confused, and said that he did not think that there was anything wrong with Mr. Burleigh getting four people together and

say something came up at City Council last week, so let's go take a look at it and figure it out and get some input and pass it on to the City Administrator, because that would require nothing from this table. Rebecca Huss said that they are using Mr. Burleigh very effectively now, and as John Champagne said, he has provided an incredible amount of value. Rebecca Huss said that they have to acknowledge that for a committee to be effective, they have to have access to information, and in order to have access to information, they will have to get reports from the engineer, utility operator, so that will cost the City time since it is billable hours to fulfill that request. John Champagne said that they are assuming that they are going to go to the engineer but that is not a necessity.

John Champagne asked that Mr. Burleigh be recognized to speak. Mr. Burleigh stated that the City had a Water Board before, which he was a member, and several others were on the Board, along with the City Engineer. Mr. Burleigh said that they did all the analysis and recommendations for the Catahoula Well. Mr. Burleigh said if they had not done that and made the recommendation to the City, the City would be paying the SJRA rate. Mr. Burleigh said that they can pick anyone that they want to serve on the Board, and said that there are highly skilled people that want to volunteer to do engineering and analysis, everything that he has been doing for Mr. Yates for the last two years. Mr. Burleigh said that the City gave him access to information, he analyzed the information and provided spreadsheets and data, then gave it back to the City for them to make their decisions. Mr. Burleigh said that this would be other highly skilled people who want to help. Rebecca Huss said that she did not think that they needed to call it anything. Mr. Burleigh said the City has \$26 million dollars in projects coming up in the future, that the Capital Improvement Advisory Board looked at, and these technical people can look at the projects and prioritize them with a second set of eyes, and everything that comes out of this will be good for the City, free of charge. Mr. Burleigh said that they can name more and more things that the committee can do, and asked why they would not tap the talent that has been volunteered for your use, because that would be a grave mistake of the City. Mr. Burleigh said that the City used this information before and it was not a big issue, and he cannot really see the issue right now.

Jon Bickford asked if they need a formal path and whether they really need to do anything. Rebecca Huss said that she thought that it was the presentation of the idea rather than the idea itself. Rebecca Huss said that they could continue their good work and save money for the

City. Mayor Jones said if they need helpers, then get them. John Champagne asked if it could be recognized as a group of people, at the City Council's pleasure, that they use for advisory purposes. Mr. Foerster stated that the only concern is if City Council has directed some group of individuals, as a committee, to formulate information and come up with recommendations that will be presented back to City Council for the City Council's consideration, in his view, he believes in all his reading of the Texas Open Meetings Act, that would require the committee to post an agenda and to keep minutes. John Champagne asked how many people constitute a committee, because Mr. Burleigh has been doing that for years. Mr. Foerster said that there is nothing wrong with any individual, and said that he was not opposed to that idea. John Champagne asked what how many people would constitute a committee. Mr. Yates stated that up until now, Mr. Burleigh has been acting at his request. John Champagne said that Mr. Burleigh has been passing data to Rebecca Huss, who is part of the City Council, and said that he has never seen the data. Mr. Yates said that he had through the water and sewer rate information. Jon Bickford said that the point is, Mr. Burleigh has been providing the data to the City, not directly to City Council. Mr. Foerster said that any citizen has the right to look at records, under the Open Records Act, and provide recommendations to City Council, either in a public forum or to get on the agenda and make recommendations. Mr. Foerster said that it is when this City Council goes out and appoints a committee, then it falls under the Texas Open Meetings Act. John Champagne asked if Mr. Yates appointed the committee. Mr. Yates said that what he was going to say, Mr. Burleigh has been acting at his request. Mayor Jones said how about if Mr. Yates keeps using Mr. Burleigh as a consultant, and Mr. Burleigh brings along a couple of consultants to assist him, when needed. Mr. Foerster said that as long as this City Council does not appoint a committee, if the citizens do whatever they need to do, and any Administrator or City Council Member seeks their advice and consultation, that would be fine. Mr. Foerster said that when it is the governing body of the City appointing a committee that is the difference.

John Champagne said that he understood and withdrew his motion, so there was no action required for this item.

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.)

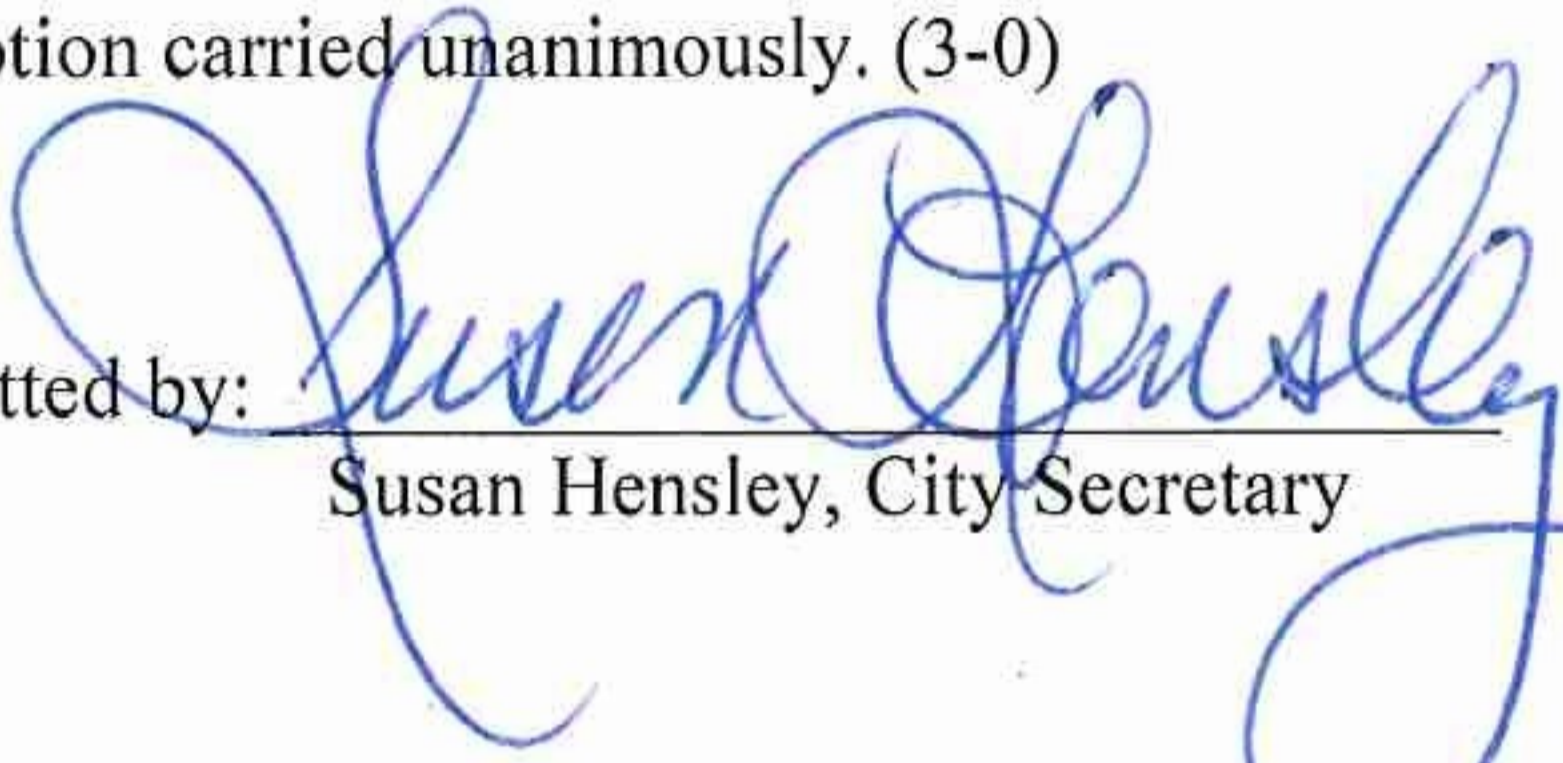
COUNCIL INQUIRY:

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.


There were no inquiries.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 9:30 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

Submitted by: 
Susan Hensley, City Secretary

Date Approved: 03/13/18



Mayor Kirk Jones

