

**NOTICE OF REGULAR MEETING**

**February 13, 2018**

**MONTGOMERY CITY COUNCIL**

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

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

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

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

**CONSENT AGENDA:**

1. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on January 9, 2018 and Public Hearing and Regular Meeting held on January 23, 2018.

**CONSIDERATION AND POSSIBLE ACTION:**

2. Consideration and possible action regarding an Interlocal Agreement with Montgomery County Emergency Services District No. 2 to share sales tax proceeds for future commercial retail properties that may be annexed by the City.
3. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY OF 3.22 ACRES OF LAND, MORE OR LESS, IN THE JOHN H. CORNER SURVEY, ABSTRACT 8, TO THE CITY OF MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE. (*Peter Hill Property*)

4. Consideration and possible action regarding amendment of an October 9, 2012 Variance Agreement regarding the paving of property, north, and adjacent to Rancher's Daughter business on College Street.
5. Consideration possible action regarding LDC gas rates and recovery charges billed to their customers.
6. Consideration and possible action regarding QBS Homes request for a front building line variance from 25 feet to 20 feet on Lots 1,2,3 and 4 on Sheppard Street, and from 15 feet to 10 feet on the north side of Lot 4 all within Section 1, Block 1 in the West Side at the Park Subdivision.
7. Consideration and possible action regarding approval of an application for an Alcohol Beverage Permit for Uncle Bob's BBQ Montgomery, to be located at 20873 Eva Street, Suite G, Montgomery, as submitted by Robert L. Blalock. (*Previously Pizza Shack*)
8. Buffalo Springs Bridge Report by the City Engineer.

**EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

9. Convene into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
  - a) 551.071 (confidential consultation with the City Attorney); and
  - b) 551.072 (deliberation regarding real property).
  - c) 551.074 (personnel matters – City Administrator's Contract)
10. Convene into Open Session.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**


11. Consideration and possible action, if necessary, on matters deliberated on during Closed Executive Session with the City Attorney.

**COUNCIL INQUIRY:**

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

ADJOURNMENT



  
\_\_\_\_\_  
Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 9<sup>th</sup> day of January 2018 at 3:00 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

---

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

---

**MINUTES OF PUBLIC HEARING and REGULAR MEETING**

**January 9, 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  
                  Chris Roznovsky              City Engineer

**INVOCATION**

John Champagne gave the invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**PUBLIC HEARINGS:**

Mayor Jones announced that the order of the Public Hearings would be changed and Public Hearing 3 would be held first.

Convene into Public Hearings:

1. Public Hearing - regarding Annexation of a 3.22-acre tract of land in the John Corner Survey, Abstract 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas. (Second of two Public Hearings).

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

Mr. Yates advised that this is the property that is immediately across from and south of the new Pizza Shack location and is 3.22 acres of land. Mr. Yates said that the annexation action will occur at the January 23, 2018 City Council meeting.

There were no other comments made.

**Adjourn Public Hearing**

Mayor Jones adjourned the Public Hearing at 6:13 p.m.

2. Public Hearing - regarding Amendment of Impact Fees for the City of Montgomery.

Mayor Jones convened the Public Hearing at 6:13 p.m.

Mr. Yates advised that this Public Hearing is for a consideration of Impact Fee Amendments. Mr. Yates said that the Capital Improvement Advisory Committee met in October 2017 and recommended a somewhat lesser Impact Fee. Mr. Yates said that the action on the Impact Fee Ordinance will be on the January 23, 2018 City Council Meeting.

Mayor Jones said that the Impact Fee exists, but the City is evaluating changing the numbers. Mr. Yates said that the Capital Improvement Advisory Committee was the group that came up with the first number in October 2016, and then City Council adopted it in December 2016. Mr. Yates said that this is the required annual review, according to State Law, and the Committee made a recommendation to City Council, which they have heard before this meeting.

Mayor Jones asked if these Impact Fees directly impact existing residents. Mr. Yates said that the Impact Fees do not impact existing residents, it is just for new connections. Mr. Yates said

that the basic idea for an impact fee is so that the new connections pay for the required new improvements to the water and sewer system. Mrs. Sara Countryman asked what new connections. Mr. Yates said that it would be new water and sewer connections in the new subdivisions.

### **Adjourn Public Hearing**

Mayor Jones adjourned the Public Hearing at 6:16 p.m.

### **3. Public Hearing – City of Montgomery Community Development Block Grant (CDBG) 2016 Disaster Recovery – regarding the General Land Office (GLO) CDBG-DR 2016 Floods Program.**

Mayor Jones convened the Public Hearing at 6:02 p.m.

Mr. Yates advised that this is related to the General Land Office (GLO) Grant that has been discussed for the last several months. Mr. Yates advised that Mr. Jeff O’Connell, with Grantworks, was present.

Mr. O’Connell advised that Grantworks is putting together the Grant application for the 2016 Flood Grant that the GLO is administering. Mr. O’Connell said that they are working with the City and Jones and Carter to analyze the budgets for the different improvements that are going to be taking place in the City. Mr. O’Connell advised that Montgomery County was one of the most impacted counties, so all the funding that they have received for the City is not competitive money, it is basically monies that was allocated for the City of Montgomery. Mr. O’Connell said that the amount of money is \$2,280,000, and there are five different projects that they will be working on, with a due date of February 28, 2018 for submittal of the grant.

Mr. O’Connell stated that the projects that they are looking at right now, with the main project being MLK Drive and Baja Road Project, which involves several things, with relocation of a water line, upgrading of a sewer line, drainage on Baja Road and resurfacing of both of those roads, which comes out to \$1,170,000. Mr. O’Connell said that they were also looking at a water plant, emergency generator for Water Plant #3 that is \$550,000; rehabilitation of Lift Station #3 for \$250,000 and a generator for the Stewart Creek Wastewater Treatment Plant. Mr. O’Connell advised that when he worked on grants in 2012 and 2015, most of the grants

were emergency generators and there was a backlog on the generators, and Texas was using so many of the generators that they could not produce them fast enough. Mr. O'Connell said that it was really wonderful to have generators because if the power goes out in the City, it will keep things running and it is very important to have them.

Mr. O'Connell said that in order to get the funding, you have to have neighborhood target areas that have low to moderate income. Mr. O'Connell said that 51% of the target area has to comply with that in order for the funding to move forward. Mr. O'Connell said that they have been out in the City surveying different areas and they have come up with target areas for the lift station and for the roadway project on MLK and Baja. Mr. O'Connell advised that the City basically complied with all the requirements necessary to fund these projects.

Mr. O'Connell said that they are very close to getting the applications done, and advised that they would submit the applications to the City within a months' time, around mid-February, because the GLO requires a two week review by the City to make sure that everything that they put in the application is appropriate.

Rebecca Huss asked about the rest of the timeline after the application is submitted to the City for the two week review in February. Mr. O'Connell said that once the City has reviewed the information, they will submit the application to the GLO prior to February 28, 2018, and the GLO will take about 30-45 days to review the application, and then hopefully the projects will start after that review.

Rebecca Huss asked about the projects that Mr. Roznovsky has engineered and whether they would be ready to go. Mr. Roznovsky stated that everything was only preliminary, so all of those projects would still have to be designed once they get some response from the GLO on which projects are going to be approved and they have knowledge of the funding that will be available. Mr. Roznovsky stated that all those projects, with the exception of Buffalo Springs Bridge, are preliminary and initial cost estimates. Rebecca Huss asked what would be the estimated timing for the engineering. Mr. Roznovsky said that it would vary per the project, and there are five different projects, which includes MLK and Baja and a tributary that runs behind Baja, and will depend on how the funds come in. Mr. Roznovsky said that the MLK and Baja improvements and the generator at Water Plant #3 will be the top two projects, and

the rest will fall in after those. Mr. O'Connell said that once they get the grant approved, each project has to go through an environmental review that will take 30 to 45 days to get the review completed.

John Champagne asked for a point of order, and stated to the Mayor that this was a Public Hearing and Mr. O'Connell is giving a report, and the Baja and other discussions should be taken up in an engineering report. Rebecca Huss said that they do not have that on this agenda. John Champagne said that this was out of order. Rebecca Huss said that this was really a timeline question about the grant, which seems to be relevant to the presentation on the GLO grant. John Champagne stated that this was not a question and answer session, and is not on the agenda, this is a report. Mayor Jones said that there was an action item on this matter on the agenda. Mr. O'Connell said the idea was to have input from the public, which is why they are having the public hearing. John Champagne said that City Council is not the public. Rebecca Huss said that she thought they had addressed this matter the last time, and City Council is the public. John Champagne said that they were addressing it again.

Mr. O'Connell asked if there were any questions from the public regarding the information being presented.

Mrs. Snead, who lives on Martin Luther King Jr. Drive, asked if the area behind her house would be included in the project that was being described. Mr. Roznovsky said that was correct, that was one of the projects that is listed. Mrs. Snead said that the National Guard came by her home and gave her some assistance, but the City was supposed to be helping, but they say it is going to be sometime in May or whenever it is approved, which is what she is hearing. Mr. O'Connell said that it was his understanding that the bridge project is going to be funded through FEMA and through a prior CDBG Grant, and it is his understanding that the 25% match that the City has to provide has been taken care of. Mr. Roznovsky said that was correct; the bridge is going forward, the contractor is on site and they have had the pre-construction meeting.

T.J. Wilkerson asked about the 30-45 day review. Mr. O'Connell said that they would have to do the environmental review, design work and then go out for bids on the projects, which would be the process. Mrs. Snead asked if there would be another meeting before all that takes place.



Mr. O'Connell said that if the City wants to have another meeting they can. Mrs. Snead said that she wanted to make sure that she was included in any meeting that they have in the future. Mr. O'Connell said that the application would be available to the public and they will try to get the information online and have a copy available at City Hall so that it can be reviewed to make sure that they are included in the project listing.

Mayor Jones thanked Mr. O'Connell for presenting his report.

**Adjourn Public Hearing**

Mayor Jones adjourned the meeting at 6:12 p.m.

**Reconvene into Regular Session:**

Mayor Jones reconvened into Regular Session at 6:16 p.m.

**VISITOR/CITIZENS FORUM:**

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

Mrs. Sara Countryman said that she had an opportunity to speak with some of the Councilmembers prior to the meeting. Mrs. Countryman said that she was a City resident and she lives in Buffalo Springs. Mrs. Countryman said that she is not happy with LDC, or the rate increases of LDC. Mrs. Countryman said that she has failed to come to a lot of the Council Meetings, where she would have learned at that time that City Council actually did have the residents' back, from what she understands. Mrs. Countryman said that as a resident, it is really hard to see that less than a mile from where you live, customers are paying a lot less because they have the opportunity to be with CenterPoint. Mrs. Countryman said that she thought there was a new charge that showed up a couple of months ago for a \$21,000 mistake that happened and is shown as the Lone Star Surcharge. Mrs. Countryman said that she did not feel that the residents should be on the hook for that, and asked if the contractor or developer had a bond and wouldn't that cover a mistake. Mrs. Countryman said that she understood that the matter went to the Railroad Commission after coming before the City Council, but at the same time

there has got to be another avenue of coverage. Mrs. Countryman said that she does not get to use that area, so why is she having to pay for it, and with rates going down in gas, why are their rates going up. Mrs. Countryman said that her rate is over \$100 more, and there are people in her neighborhood whose bill has tripled. Mrs. Countryman said that the price of living in the City is getting out of control, with the water going up, now the gas, and she would like to know, as a resident, what she can do.

Rebecca Huss asked Mr. Foerster and Mr. Yates about whether they looked into following up on the rate increase that was denied, that LDC received anyway. Mr. Yates said that he has not been able to contact the Railroad Commission. Mr. Yates said that basically what happened was that City Council denied the rate increase, it went to the Railroad Commission and it got improved anyway. Mrs. Countryman asked if they were talking about the \$15 surcharge that jumped to \$21, or are they talking about the other surcharge that has now been added to their bill that is called the Lone Star surcharge.

Rebecca Huss said that surcharge was because LDC built out their lines in advance of the Lone Star Bend Road going in, and the road ended up being in a different location, so they had to re-lay their pipe. Rebecca Huss said that City Council denied LDC's rate request specifically because they did the line on spec because they thought they could get it done cheaper by doing it all at once. Rebecca Huss said that it was not the City's responsibility to cover LDC's cost for building on spec, which City Council said specifically was the reason they denied their request. Rebecca Huss said that LDC went to the Railroad Commission and said that the City did not give a reason for denying the rate and the Railroad Commission said that the City was required to give a reason for the denial, and therefore the rate increase was approved by the Railroad Commission.

Mrs. Countryman said that she wanted to go on record that Larry Corley is a crook, and with that being said, what legal recourse the City has and is there anything that the City Attorney can do. Mr. Foerster said that they are probably too late right now, and said the City would have to retain an Austin attorney to appeal the Railroad Commission's ruling. Rebecca Huss said if there was any way to get the Railroad Commission to discuss the matter with the City without it going that way, and they could use the elected representatives for that as citizens. Mr. Yates said that he did speak to the Railroad Commission one time, and they said that it was required by the Railroad Commission that the City Council give a reason for their denial, and since City Council did not state a specific reason in the motion, the Railroad Commission did not consider that a denial by the City. Mrs. Countryman asked why the City did not give a reason for denial.

John Champagne said, to Rebecca Huss' point, a reason was given and one of the few times, he referred to the paper, he believed the newspaper said that they did not give a reason, but that is false and he would think that the minutes would reflect the fact that we gave a reason. Mrs. Countryman said that if the City gave a reason, maybe they need to go back and give a better reason and then maybe get legal involved, because she did not think that the residents should be paying for it if they are not using it. Mrs. Countryman said that she would like to know what the City can do, and said that she has people behind her that are not happy as well. Mrs. Countryman said that if she has to walk the streets and get people to sign something, she will because this is wrong.

Mr. Yates said that he would follow up with the Railroad Commission, because the answer to the initial question as to whether City Council gave a reason for the denial, City Council included the reason in their discussion, but they did not include it in their motion because they did not realize they were required to do that by the Railroad Commission. Mr. Yates said that what he needs to do is get to the Railroad Commission to find out what the City's appeal is to them, because he made a copy of the minutes about a month ago. Mrs. Countryman said that she would like to know if there is an appeal process and who is keeping up with that \$21,000 mistake; would that be the State, Mr. Corley or the City of Montgomery. Mr. Yates said that the LDC books are audited every year, and the Railroad Commission audits LDC's books every two years. Mr. Yates said that he can let the residents of Buffalo Springs know the results of the conversation with the Railroad Commission. Mrs. Countryman said that anyone that is affected by that cost should want to know where they are. Mr. Yates said that would be every LDC customer. Mayor Jones thanked Mrs. Countryman for expressing her thoughts to City Council.

**CONSENT AGENDA:**

4. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on December 12, 2017.
5. Consideration and possible action approving a leave of absence for Council Member Jon Bickford.
6. Consideration and possible action regarding DeWitt Lawson application for renewal of a Special Use Permit for 14611 Liberty Street to sell firewood.

7. Consideration and possible action regarding adoption of the Election Services Agreement by and between the City of Montgomery and Montgomery County, Texas for the May 5, 2018 Election.
8. Consideration and possible action regarding adoption of the Joint Election Agreement with Montgomery County and the participating entities for the purpose of jointly conducting elections to be held on May 5, 2018.

Mayor Jones stated that Consent Agenda Item 5 was not necessary for the meeting.

Jon Bickford asked about Item 6, and whether there were any issues or complaints regarding that location. Mr. Yates said that the property is much cleaner than it was last year. Jon Bickford asked if there were any complaints regarding traffic due to the business there. Mr. Yates said there were no complaints.

Rebecca Huss said that they were going to pull Consent Agenda Item 5 from the list. Rebecca Huss moved to approve the Consent Agenda Items 4, 6, 7 and 8, as presented. T. J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

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

9. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CITY ORDINANCE NO. 1989-2, DATED FEBRUARY 14, 1989, BY AMENDING ARTICLE II, "LICENSES," SECTIONS 6-25, 6-33 AND 6-34 OF CHAPTER 6, "ALCOHOLIC BEVERAGES," OF THE CITY CODE OF ORDINANCES RELATING TO THE APPLICATION AND RE-APPLICATION REQUIREMENTS FOR A LICENSE TO SELL ALCOHOLIC BEVERAGES IN THE CITY; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Yates presented the information to City Council, advising that this was an ordinance to amend the Code of Ordinances to expedite the process for approval of Beverage Permit Applications and to tract the two year renewal term as provided by TABC. Mr. Yates advised

that the process will still require the vendor to come before City Council to get their Beverage Permit reviewed and approved, but would not require the public hearing mail out and publication of legal notice. Mr. Yates said that TABC publishes a legal notice for new applications, so this would be a duplication. Mr. Yates stated this process would expedite the process for the business owner, while still allowing the public process of the application. Mr. Yates advised that the City's Code has the beverage permit renewal annually, while TABC is set up on a two year renewal, so this would also update that information.

Jon Bickford asked that, if TABC announces an application, how is the public going to know. Mr. Yates said that they could see the application, and TABC requires a sign to be posted on the property. Jon Bickford asked, if it would no longer be a part of the agenda, how would people know. Mr. Yates said that the information would still be on the City Council Agenda and City Council would still have to take action on the item, they just would not be required to publish a separate notice. Rebecca Huss said that the residents would not be receiving a mail out directly notifying them that they live within 200 feet of the business. Jon Bickford asked if TABC would mail out a notice. Ms. Hensley, City Secretary, advised that TABC publishes a legal notice of application for the business applying for the permit, they do not mail out the letter of notice. Mr. Yates said that was his question also as to how a local person would be aware of the permit application, and Mr. Yates said that there is a certain size sign that is required on the property that is displayed.

John Champagne said that the short version is that they are taking out exactly what is in the process form the ordinance. Mr. Yates said that they are removing the City Council required public hearing in advance of the item being on the agenda. John Champagne asked what the motivation for this action was. Mr. Yates said that it was to expedite the process for the permit applicant and the City. Mayor Jones said that the process of calling the public hearings is cumbersome and expensive. Rebecca Huss said that she did not think that it made sense to have a process that is more onerous than what TABC requires. John Champagne said that he typically did not take his leave from another governmental entity, but if it short changes the public from having input on something that could be a negative, he was not sure it was the best route to take, if in fact, the public is aware and has an opportunity to do so. Mr. Yates asked the City Secretary about the current process. Ms. Hensley advised that under the current process, a notice is mailed out to property owners within 200 feet of the property requesting

the beverage permit. John Champagne asked if the City would still send out that notice. Ms. Hensley advised that with the amendment they would not have to send out the notices, and noted that the notice is published by TABC in the City's official newspaper, the Courier. Ms. Hensley stated that the information would also be posted on the City's website, on the agenda and the applicant would still be required to come before City Council for approval.

John Champagne said that to fast track something that was purposely impeded in the past, sometimes things that were done in the past is not a bad thing, so just for the sake of airing out what his thoughts are, he does not have a problem with slowing down more alcoholic beverages, if in fact a certain segment of the City might be effected negatively or the City as a whole would have a problem with it. Mr. Yates said that he was not saying that this is an answer or a rebuttal to John Champagne's statement, but the only difference and advantage to what they are doing now is the separate mail out that goes out to people within 200 feet. Mayor Jones said that the item would show up on the agenda and residents can come and speak in the public forum about the matter, so the public will still get a say. Rebecca Huss said that City Council has been consistently aware of the impact of the alcohol beverage licenses, and if people disagree with the permits, they still discuss them and they have not been rubber stamped. Mr. Yates said that if there were to be a conflict about the permit, nothing states that the permit has to be approved the first time it is on the agenda, and it could be postponed until the next meeting to give the public more notice. John Champagne said that he comes from an area where all you had to do was raise your hand and get an alcohol license, and one of the reasons that he is here on City Council, and one of the reasons that he feels that Texas has a higher quality of life than where he used to come from, was because of certain restrictions and not a lax view.

Jon Bickford moved to adopt the ordinance as presented. Dave McCorquodale seconded the motion, the motion carried with 4-Ayes and 1-Nay by T.J. Wilkerson. (4-1)

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

A RESOLUTION OF THE CITY COUNCIL OF MONTGOMERY, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) APPLICATION TO THE TEXAS GENERAL LAND OFFICE; AND AUTHORIZING THE CITY ADMINISTRATOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE

IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE CDBG-DR PROGRAM.

Mr. Yates advised that this was to formally authorize the application. Mr. Yates said that for right now the plan was to include 70% percent of the projects that need to be in low to moderate income areas, with the priority being the Town Creek Tributary. Mr. Yates said that the following is a list of the project priorities:

- First - Town Creek Tributary is the first priority;
- Second - Martin Luther King to Baja Road Sanitary Sewer Cleaning and Televising;  
and
- Third - Martin Luther King Drive and Baja Road Water and Sewer Drainage and Paving Improvements. Mr. Yates said that the reason this is the third priority is because the City already has a CDBG Grant for Baja Road that will be happening during early Spring and Summer.

Mr. Yates said that depending on what the other projects cost, they will not need that much money for Martin Luther King and Baja Road Water and Sewer Improvements. Mr. Yates said that for the 30% of the projects, which are the non-low income, and for the first priority they are allowing \$46,000 for the GLO portion of the bridge repair, just in case there is not enough funds in FEMA or the existing CDBG-DR Grant that they have for that.

Mr. Yates said that the second priority is the Stewart Creek Wastewater Treatment Plant and Lift Station #1 with a generator. Mr. Yates said that Lift Station #1 is going to be moved over by the Sewer Plant so one generator is necessary at \$370,000.

Mr. Yates said that the third priority is the Water Plant #3 generator, located off of FM 1097, and the estimated cost is \$554,000. Mr. Yates said that those costs will eat up more than the \$647,000, which is 30% of the \$2,280,000 expected grant. Mr. Yates stated that a resolution is required for this process to make the application.

Dave McCorquodale moved to adopt the Resolution as presented. Rebecca Huss seconded the motion.

Discussion: T.J. Wilkerson asked Mr. Yates if 70% of those funds would be spent on Baja Drive. Mr. Yates said no, 70% would be spent in low to moderate income areas. Mr. Yates

said that the first priority is the Town Creek Tributary, which is between Martin Luther King, Jr. Drive and FM 149, behind Ms. Snead's home and is known as Anders Branch. Mr. Yates said that the \$59,000 is for Martin Luther King, Jr. Drive and Baja Road Sanitary Sewer Cleaning and Televising, and the third priority is Martin Luther King, Jr. Drive Water and Sewer Drainage and Paving Improvements. Jon Bickford said that would be more than 50% of the total \$2,280,000. Mr. Yates stated that it would be 70% of the total. Jon Bickford said that the two projects that are related to Baja Drive are approximately 50% of the total. T.J. Wilkerson asked whether they planned on building a subdivision in that area. Mr. Yates said that they have not submitted a final plat, but said that they have submitted escrow funds, so he felt that they were serious about the development. T.J. Wilkerson asked if the sewer would tie into that development. Mr. Yates said that was correct, but they would pay for their own sewer and none of this grant would be for that subdivision. Mr. Yates said that the grant work would go to the end of Baja to cover the last home on the right. Mr. Yates said that the new development would be able to tie into the line, but the line was being put in for the existing residents.

The motion carried unanimously. (5-0)

11. Consideration and possible action regarding appointment or reappointment of MEDC Board Members to fill the positions currently filled by Cheryl Fox and Bill Hanover.

Mr. Yates advised that both of the positions listed were up for renewal, and the applications had been posted on the City's web site and on the bulletin board, in addition to a newspaper article that Mr. Yates had submitted. Mr. Yates said that two applications were received, from Cheryl Fox and Bill Hanover. Mr. Yates said that their attendance and participation on the MEDC Board had been very satisfactory. John Champagne said that he would agree, and stated that he serves with them on the MEDC Board, and they do a good job. John Champagne said that this is why local, state and federal governments go down the tubes, because people do not get involved. Rebecca Huss said that one of the members is not a resident of the City, so they have nonresidents determining the use of City money, which she was not saying that the member was not a good steward of their monies, but he might have his own priorities. Mayor Jones said that the Bylaws for the MEDC does allow for the nonresident membership on the Board.



Jon Bickford moved to reappoint MEDC Board members Cheryl Fox and Bill Hanover. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding a Beverage Permit Application for Cork This! Winery located at 21123 Eva Street, Suite 100, Montgomery, Texas, and if necessary schedule a Public Hearing to be held on February 13, 2018 at 6 p.m. at City Hall.

Mr. Yates said that City Council will need to take action to approve the application. Jon Bickford asked if this was the same type of license as the previous permit. Mr. Yates advised that was correct, it was just a new owner.

Jon Bickford moved to approve the Beverage Permit Application for Cork This! Winery located at 21123 Eva Street, Suite 100, Montgomery, Texas. John Champagne seconded the motion.

Discussion: Mayor Jones stated that the previous owner, Karla Nash, who was present, invented Cork This! Winery and has made it very successful and has been a big part of the City of Montgomery for a long time, and now they have the new owners that are taking it over and not changing much of anything, but carrying on as the previous business did and will be bringing some other new ideas to the City. Mayor Jones extended a welcome to the new owners and said that he felt it was great that they will carry on a great existing business.

The motion carried unanimously. (5-0)

13. Consideration and possible action regarding Longview Greens Miniature Golfing variance request to allow gravel to be used as a parking surface.

Mr. Yates advised that this was an extension to an existing parking surface variance given to Mr. Jason Long for Longview Greens Mini Golf on March 14, 2017 City Council Meeting, where he was granted a variance to pave the parking lot within six months of receiving his certificate of occupancy for the business. Mr. Yates stated the certificate of occupancy was issued June 7, 2017. Mr. Yates said that the business will lose its certificate of occupancy if it

is not paved. Mr. Yates said that he issued a letter to Mr. Long on December 29, 2017 stating that he had exceeded his six month time limit, Mr. Long said that he realized that but was asking for an extension. Mr. Yates said that he had advised Mr. Long that if he applied for the extension, then he would not remove his certificate of occupancy for his business until City Council had decided one way or another.

Mr. Long, who was present, advised that he was thankful that City Council has worked with him in the past to get his small business up and running, and for the variance that was issued. Mr. Long said that he does have the parking lot apron paved from Clepper to the parking lot, but the actual parking lot itself is not paved. Mr. Long asked City Council to consider extending the variance request so that he can have time to get that parking lot paved, because the cost is about \$25,000. Mayor Jones asked Mr. Long how much time he felt that he would need. Mr. Long said that he would like a full calendar year. John Champagne said that based on the past amount of business that Mr. Long has realized, he believes that 12 months would be a more appropriate request for this extension. John Champagne said that he passes by the business every day and there has not been a dust problem. Jon Bickford said that his concern was that it is not fair to do for one business and not the others, so where do they draw the line and say they are not going to give everybody 18 month extensions on paving, because then they could have a real mess. Mayor Jones said that if they do not extend the variance, then the business is shut down.

John Champagne said that this action was quite unusual for him, so he is directing this question to the City Attorney, and asked if it would be inappropriate to request an Executive Session to discuss this matter with Mr. Long at some point. Mr. Foerster said that it would be inappropriate.

Rebecca Huss said that the other item, which they had discussed before, was the discussion about possibly having MEDC partner with businesses to create a more pervious surface parking type of experience, which in some ways would be great for Mr. Long's setup, because it is a much more natural looking business. Rebecca Huss said that maybe there is another solution for the parking lot that would work really well for the City aesthetically as well as for water retention and dust elimination. Rebecca Huss said that regarding the variance, they either have to shut the business down or grant the variance, but this is a possible third variance. John

Champagne said that they have an ordinance in place that requires them to pave. Rebecca Huss said that the ordinances are in place to have minimum standards, but if someone comes in and says that they want to come in and do something that is better, but does not fit in the ordinance, that is the type of variance that she would love. John Champagne said that he was not against that, and said that there was certain technologies out there that provide a grid that contains sod and/or rock and other materials that would provide permeation for drainage.

Dave McCorquodale said that he would like a little more data and understanding about the business, and said that he was interested in the daily patrons, because that will tell them what the parking lot load is, and what he would propose is another six month extension, but that City Council would understand, prior to approval, and also said that he was not opposed to the calendar year extension, but he was thinking of it in two bites; whether there are issues with it and is there a solution where if the daily attendance is 25, don't pave 150 spaces, pave 40 or 30 spaces. Jon Bickford said that if that if followed up with a change or a variance of the ordinance that would be fine. Dave McCorquodale said he did not want to pull the certificate of occupancy, but he did want a little more information about what the exact set of perimeters that they are trying to solve. John Champagne said they are opening Pandora's Box, which is one of Jon Bickford's concerns, which is legitimate. John Champagne said that he would consider a three month variance, and they look for ways to solve the problem. Mr. Yates said that regarding Dave McCorquodale's suggestion, he felt that it might require two set ups, and maybe they pave the front half of the parking lot in the first 3-6 months, and then the other half of the parking lot in the next six months. Dave McCorquodale said that he understood the timing of the 3-6 months, but his concern was the practicality of January, February and March, with the revenue cycle. John Champagne said that he was in line with Dave McCorquodale's thoughts, but said that he just did not want the sense of urgency to go away by allowing six months, and said that he would not have a problem going another three months. John Champagne said that City Council wants to see Mr. Long succeed, so his desire, is that they do everything that they can as a body, in the perimeters allowed, to help him succeed. Mayor Jones suggested Mr. Long pave half the parking lot within the first six months, and the other half in the six months following.

Rebecca Huss moved to extend the variance for six months, and if Mr. Long comes back with a request for an extension, then he needs to come back with attendance and sales tax records

to the City, including other pertinent numbers that will help them make a decision about where they go from there.

Mr. Foerster asked for a clarification, he stated that the variance concluded in December, 2017, and asked if they were talking about six months from today's meeting. Rebecca Huss said that it would be six months from the previous expiration of the variance. Mr. Yates said that the variance expired on December 6, 2017.

John Champagne asked Rebecca Huss if she would be acceptable to an amendment the motion that Mr. Long come back in 60 days to give City Council an update on how it is looking for him to get into compliance, and an estimated amount of time, or advise the City Administrator. Rebecca Huss said if he met with the City Administrator that would keep his private information private.

Dave McCorquodale seconded the motion. John Champagne asked about his recommended amendment to the motion. Rebecca Huss rejected the amendment to the motion. Mayor Jones asked Rebecca Huss to restate her motion.

Rebecca Huss moved that they provide a six month variance dated from the time of the expiration of the previous variance, and if Mr. Long intends to come back with a request for an extension of the variance, he is to provide pertinent numerical information, such as sales tax revenue to the City, attendance, etc., to help them make their decision. Mr. Foerster stated that he would ask that the minutes reflect that would be six months from December 6, 2017, and the variance deadline would be June 6, 2018. Rebecca Huss asked that the City Secretary note for the record that the deadline for the variance would be June 6, 2018. The City Secretary noted the addition of the date of the deadline. Dave McCorquodale stated that he had seconded the motion.

Discussion: Jon Bickford said that he would support the extension of the variance through April 6, 2018. Rebecca Huss said that if Mr. Long wants another extension, he will need to come back with numbers. Jon Bickford said that he would like to state, prior to the vote, that once again City Council should be prepared for other businesses to come in here to grant them a year to put their paving in after their building is done. Rebecca Huss said that she thought

that the time to deny the variance would have been at the very beginning as opposed to now, because she agrees, you never have more money than at the beginning. Jon Bickford said that he had tried back then, and they all said that they wanted to give him six months, and here we are again. Jon Bickford said that when Mr. Chatham walks in and says that he doesn't want to pave his medical facility, he is going to support giving him a years' worth of mulch on it. Jon Bickford said that rules are rules, and said that builders come in to the City and say that they don't want their streets too wide, so they can't get two cars on them, and they want to keep amending things, eating away at the ordinances and the things that they are doing to try and keep the City clean and nice, but they keep making all these exceptions, so if they are doing it for one they have to do it for others, because it is not fair. Rebecca Huss said that Mr. Foerster has very specifically stated that nothing that they do here has set a precedent for the future in terms of what we are required to do. Jon Bickford said that might be the case legally, but morally he felt that it does, and he felt that they have an obligation to treat everyone fairly. Mayor Jones said that he would like to point out that the present situation is not causing a hardship or public nuisance or anything like that. Jon Bickford thanked the Mayor for the information, but said that was not his point. Mayor Jones said that Mr. Long also has to abide by the PDD. Rebecca Huss said that the variance will also have to be approved by Mr. LeFevre.

The motion carried with the following vote:

Rebecca Huss – Aye	John Champagne – Nay
Dave McCorquodale – Aye	Jon Bickford – Nay
T.J. Wilkerson - Aye	

14. Consideration and possible action regarding a Utility and Economic Feasibility Study for the 1.574 acre Walker Montgomery Community Development Corporation Baja Road Single Family Development.

Mr. Roznovsky presented the Utility and Economic Feasibility Study to City Council. Mr. Roznovsky advised that the development is currently comprised of four single family homes. Mr. Roznovsky stated that the property was already in the City limits and zoned residential. Mr. Roznovsky said that with four homes they are looking at 1,000 – 1,400 gallons of water per day, so that does not put any additional demand on the City's water system.

John Champagne asked about the additional runoff as a result of this construction, because he can remember a few months back, where they had a discussion regarding a parking lot. Mr. Roznovsky said that he would come back to that.

Mr. Roznovsky said that one thing to note is there will be a new waterline that will be going in, as a part of a grant project, and they will be served by that line, but it is not going in because of this development, it was in the works before.

Mr. Roznovsky said that the sewer service is the same way, very minimal impact on the system. Mr. Roznovsky said that regarding the sanitary line that the sewer will flow to, the developer will either fill the site to allow gravity flow or they are looking to install private grinder pumps at each house, owned by the property owners, but there will be no public lift station involved. Mr. Roznovsky said that most likely they will try hard to have the gravity flow, but they will come back with that information. Mr. Roznovsky said that it will all go through Lift Station #2, and there are no upgrades needed.

Mr. Roznovsky stated that regarding drainage, there is an existing easement on one portion of the property, and that easement does not go anywhere, so the options are they can get additional easements to the south to go away from Baja, as the land actually drains and down to one of the tributaries of Town Creek and make its way back to the lake; or they can outflow to Baja, but they have an issue with depth and making it all work, so it is up to them on which way. Mr. Roznovsky said that regardless of what they choose, a drainage has to be provided. Mr. Roznovsky said that they are providing a detention pond as shown on the site plan. Mr. Roznovsky said that part of their drainage study, they have to prove what size pond they need, and if they can reduce the footprint, they might be able to get a couple more houses for the development. Mr. Roznovsky said that the site plan currently is close to the minimum lot size. Jon Bickford asked if they would need to ask for a variance. Mr. Roznovsky said that right now he did not think that they needed a variance.

Mr. Roznovsky said that the total impact fees for the development are \$16,000, and the assessed value of the homes and their estimated sales price is \$150,000 - \$200,000, and they used \$150,000 valuation as an estimate, which is approximately \$2,300 per year in taxes. Mr. Roznovsky said that they have not advised the square footage of the homes.

John Champagne asked about the drainage of Baja, which runs from the west to the east. Mr. Roznovsky said that was correct, there was an easement granted years ago that allowed some of the drainage toward the middle of Baja and out, but that easement does not currently go anywhere, so it goes into an easement and stops. Mr. Roznovsky said that the easement was regraded a couple of years ago so it all goes back toward MLK and then down to the creek. Mr. Roznovsky said that this development was at the very western and southern end of Baja. Mr. Roznovsky said that they are proposing a cul-de-sac with the four homes. John Champagne said that he was excited that they are going to do Baja and get the drainage.

Mr. Roznovsky said there is not much to the project, and they are still in the preliminary stages, but the City has the ability to serve them water and sewer. Mr. Roznovsky said that they still need to look at the drainage and get easements, if needed. Mr. Roznovsky said that the developer is Walker Montgomery Community Development Corporation and said that they have done a similar type development in Willis. Mr. Foerster said that he was not aware of any complaints with the City of Willis. Jon Bickford asked Mr. Foerster if he was familiar with the developers. Mr. Foerster said that he was familiar with the fact that they have done construction in a small subdivision in Willis.

Mr. Roznovsky said that the study has nothing to do with approval of the plans or construction drawings or plats.

Rebecca Huss moved to accept the Utility and Economic Feasibility Study for the 1.574 acre Walker Montgomery Community Development Corporation Baja Road Single Family Development. T.J. Wilkerson seconded the motion.

Discussion: T.J. Wilkerson asked if they were going to look at changing the name of the street known as Baja, because they always wondered where it came from, you have MLK and then Baja. T.J. Wilkerson said that "Baja" in Spanish means "low," so they need to look at changing it. John Champagne said that they named it right. T.J. Wilkerson said that they did not name it right. John Champagne asked if it was not low. T.J. Wilkerson said that the street name where the people are does not represent them correctly. Mayor Jones asked what the process was to change the street name. Mr. Roznovsky said that was a City street, so if the City wants

to change it they can. Rebecca Huss said that they changed Wade Street to L.A. Washington Street with a motion from City Council. Jon Bickford said that he would ask the local residents what they want to name the street. T.J. Wilkerson said they have already done that, so they will get back with them.

The motion carried unanimously. (5-0)

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

Mr. Yates presented the information advising that this was for the City Engineer to put into place a Geographic Information System ("GIS") and to place approximately 25 layers to the system, with multiple additional layers to be added in the future. Mr. Yates advised that the layers could include as built plans, zoning district maps, fire hydrant locations and a multitude of other layers. Mr. Yates said that a GIS system is a fundamental element of a growing City. Mr. Yates said that he compares it to a water and sewer master plan or a capital improvement plan for the City, and said he felt that it was just as important and vital to proper City planning.

John Champagne asked if this information would be available digitally or in hard copy. Mr. Yates said that it would be either one. Dave McCorquodale said that the City Engineer's, he assumed, already used GIS data with the maps that they provide the City. Rebecca Huss said that they already have some of the layers that they are discussing putting in. Mr. Roznovsky said the layers that the City has is all the water and sewer overall and zoning in GIS. Mr. Roznovsky said what is not in GIS and what the main bulk of this proposal is you will go to a section of the street and you can pull up the construction plans, you can click on a line that will show you the material, installation date and date of the plans; they can track things like the last time the property was surveyed or smoke tested. Mr. Roznovsky said that this will also track repair issues, so they can receive a copy of a work order and they will put in the repair on that point so that they can see where all the water leaks were in 2017.

Jon Bickford asked whether the 4-square mile City of Montgomery really needs this program. Mr. Roznovsky said that this is a time saving tool, and with all the development that comes into the City, the plans will be included. Mr. Roznovsky said that all the plans for the lift



stations will be included as well as all the facility data. Jon Bickford said that if this is a time saving tool, who will it save time for and how much time will it save in hours. Mr. Roznovsky said that it would be hard to say in hours, but gave an example related to Gulf Utility. Mr. Roznovsky said that if Gulf Utility goes out in the field and they have a waterline leak that they can't locate, currently the process is figure out where it is and then they go back to the office and find the plans that apply and go back out to the site. Mr. Roznovsky said that with the GIS system, which is a web based version that is either mobile or on computer, so they would pull up the plans where they are. Jon Bickford said that he would like to see the cost benefit analysis that says if they spend this amount of money then you will save this much, because if they are not going to save enough, they are better off not having the system. Jon Bickford said that while it would be nice to have, these programs can grow into monsters with storage and extra servers and other related costs. Jon Bickford said that he wanted to make sure that if the City is going to do this, they do a study with a real cost benefit analysis.

Rebecca Huss said that they would be paying \$7,200 per year for the GIS service. Mr. Roznovsky said that is what the proposal is for Jones and Carter to host the GIS service. Jon Bickford asked about how much storage the fees were based on. Mr. Roznovsky said that was the whole system. Jon Bickford asked if that was covering unlimited storage forever. Dave McCorquodale said that this software is the standard, no better or worse, for geospatial data, and for the City to work on anything less would be for example, "why do you need that calculator or accounting machine," it is that analogy. Jon Bickford asked if the cost was \$7,200 per month or year. Mr. Roznovsky said that it would be \$7,200 per year, which is what in the proposal to build out the layers for the GIS system, and to attribute all the information, construction plans, assets, facilities and everything the City has on file that is public, with the exception of private plans. Mr. Roznovsky said that they would also include developer agreements and developer areas. Jon Bickford asked if they had an estimate of how many pages of information that would include. Mr. Roznovsky said that he did not know how many pages of information that would be, but he could give examples of systems. Jon Bickford asked if the \$7,200 per year price was from Jones and Carter. Mr. Roznovsky said that the proposal is a lump sum build out price of \$20,000 to build the system, and then they would have the monthly maintenance of \$300 or \$600 to host the program and have it online and make updates on a monthly basis. Jon Bickford asked if they had the proposal. Mr. Roznovsky advised that it was included in the agenda pack. Jon Bickford asked if there was a copy of the draft contract

included in the pack. Mr. Roznovsky said that was the proposal, which is a standalone and references their contract with the City. Jon Bickford said that he would really like to understand the \$7,200 per year, because they could get a new development and they get drawings in, and asked when they are going to come back to the City and say that they never planned on the City having so much in the GIS system and they need to raise the price. Jon Bickford said that he wanted to know the threshold for the cost or that they were never going to raise their price for the system. Jon Bickford said that he would like to see the contract. Mr. Roznovsky said that they would be glad to table this matter and discuss the information together to answer any questions that Council might have. Jon Bickford said that storage is expensive, and asked how they are storing the information and do they have a data center. Mr. Roznovsky said that they have included that information in the pack, and said that they have an offsite in Houston and they also store the information in their own office and corporate office.

John Champagne asked who at Jones and Carter would be tasked with this project. Mr. Roznovsky said that they have a GIS team, which includes GIS operators who build the system out and perform all the updates and maintenance.

Dave McCorquodale asked about the interface, and said that on some cities' web sites he can pull up their maps. Mr. Roznovsky said that there will be two interfaces, one for the public, which will provide the basic information of the City, such as zoning, annexation, parks and buildings, but no information regarding utilities or anything like that, as it is a safety concern. Mr. Roznovsky said that the City's private side would include a log on to the web site, and will have all the public information, but will also include all the public facilities, water and sewer, drainage, plans, plats, agreements, facility data, and repair history built into the system. Mr. Roznovsky said that as they build out the city, they would commit a couple hours per month to put single family permit information into the system. Mr. Roznovsky said that they had met with Mr. Rick Hannah, City Building Inspector, because he currently is using a tracking system that may have capability to upload some of that information automatically into the GIS system. Mr. Roznovsky said that they would be able to include the information on the City's web site. Mr. Roznovsky said that they will get a temporary login, for one of the recent sites that they set up for the City or Burnet, and they have the same set up with a public and private side; that

way City Council can look at the information and then they can meet during the month with Jon Bickford to go over the terms of the contract and answer any questions.

Mr. Yates asked what would happen if the City no longer used Jones and Carter. Mr. Roznovsky said that the data would be turned over to the City, and said that they could also provide hosting services separate from their contract. Rebecca Huss asked if the system was a proprietary system or was it a standard industry-wide program. Mr. Roznovsky said that the program was commercially available software, ARC GIS and is available. Rebecca Huss said that they were not committing to Jones and Carter and the data will belong to the City of Montgomery. Mr. Roznovsky said that he thought that the proposal stated what happens to the data if the contract with Jones and Carter ended, stating that the data would be provided on multiple discs and provided to the City. Rebecca Huss asked if there was a way to get a copy of another contract with a competitor so they could see if the terms are roughly analogous. Mr. Yates said that he could get a copy of another contract. Mr. Yates said that anyone that has this system for three or four years would easily have 150 - 200 layers on the system. Jon Bickford said that he did see where they are going to pay for each time they have to add to the system. Mr. Roznovsky said that would be for the private items. Mr. Roznovsky said that when a new subdivision comes into the City, those public plans and drawing those lines are what is included in the base fee. Jon Bickford said that gets included for free. Mr. Roznovsky said that was correct. Jon Bickford said that this is too good to be true. Jon Bickford said that GIS is really a great tool. Jon Bickford said that he just needs an absolute statement that says this is it and as things come in to the system they will not be charging any more, which is fine with him, but he wants it in writing.

Mayor Jones said that the initial cost is \$20,000 and then the maintenance fee. Mr. Roznovsky said that there were two options for maintenance: a) \$300 per month for just normal maintenance and updates, not putting in new information just bare bones to keep the system running; and b) \$600 per month is the updates that come in. Jon Bickford said that it is \$7,200 and for the extra \$300 per month it would include new plans and development. Jon Bickford said that they could not afford to not include the extra \$300 per month.

Rebecca Huss moved to table item #15, the GIS System, pending provision of additional information. Jon Bickford asked that they table for four weeks, because he will not be available in two weeks. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

16. Buffalo Spring Bridge Report by the City Engineer.

Mr. Roznovsky advised that the contract times started last week on Thursday, January 4, 2018 and the Notice to Proceed was issued to the contractor. Mr. Roznovsky advised that the equipment was moved on site yesterday, they had a preconstruction meeting with the contractor today and for the rest of this week the contractor will be moving additional equipment in and getting the initial barriers put up, and according to the contractor the demolition will begin on Monday. Rebecca Huss asked what the demolition would include. Mr. Roznovsky said that there would not be any explosives, just slowly working their way through. Mr. Roznovsky said that they contractor has until the end of the week to provide his first construction schedule, so what they will do is go through that and present the milestones to City Council at the next meeting.

Jon Bickford asked when they feel like the bridge is going to be done. Mr. Roznovsky advised that the contract time is six months, but said that the contractor is stating that he will be in advance of that time period, so once they receive the schedule of construction they will present it to City Council and let them know where they stand, and then every meeting, as they have been doing, will update them on the bridge schedule and progress. John Champagne asked if the contractor falls behind there will be ramifications. Mr. Roznovsky said that was correct, there are liquidated damages in the contract and if the contractor starts slipping off the schedule, he will begin to receive letters.

Mayor Jones asked if he was assuming that the roads leading up to the bridge will have to be cut completely out. Mr. Roznovsky said that when you look at the bridge, where the concrete ends and asphalt begins, they are going approximately 80 feet back on the south side and 60 feet back on the north side, and all that asphalt and everything will be replaced because it all has to be dug down, rebuilt, waterline, sewer line and drainage pipes will be going in, and a lot of the asphalt has been undermined. Mayor Jones asked about the status of the waterline on the bridge. Mr. Roznovsky said that the waterline and also the bridge construction meeting was held today and the notices to proceed were issued and the contractors will be working

simultaneously to get the projects done, and they will have roughly the same time frame, if not sooner, because once the bridge contractor has built everything up to where the waterline goes, they will install the waterline and the bridge contractor will bury the line and proceed on with the project. Mr. Roznovsky said that they will have roughly the same time period for both project. Mayor Jones said that they are excited that dirt is about to move on the projects.

### **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.

17. Convene into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
  - a) 551.071 (confidential consultation with the City Attorney); and
  - b) 551.072 (deliberation regarding real property).

Mayor Jones convened into Closed Executive Session at 7:38 p.m.

18. Convene into Open Session.

Mayor Jones reconvened the Open Session at 8:11 p.m.

### **POSSIBLE ACTION FROM EXECUTIVE SESSION:**

19. Consideration and possible action, if necessary, on matters deliberated on during Closed Executive Session with the City Attorney.

There was no action taken by City Council.

### **COUNCIL INQUIRY:**

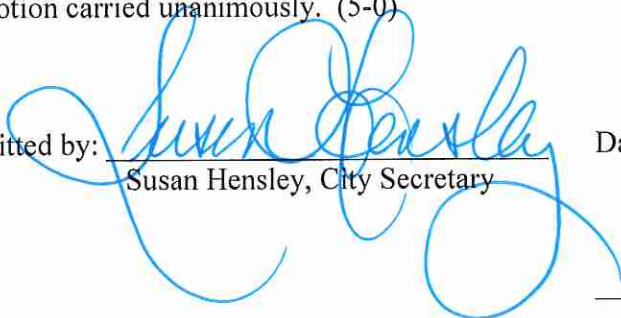
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

Rebecca Huss stated that she was pretty shocked, appalled and disgusted by the electronic sign at Brookshire Bros. that got approved, that apparently conforms to the City's sign regulations, which she discussed with Mr. Yates before Christmas. Rebecca Huss said that she has been feeling that some of the signs along SH 105 are not necessarily in keeping with what the City is looking for, and would like to propose that Mr. Yates speak to the Planning and Zoning Commission about updating the Sign Ordinance to have a definition strengthening the regulations, because she does not want to see the plywood signs, blinking and flashing signs. John Champagne said that Ransom's is a nice prototype. Rebecca Huss said that she had a problem with the Brookshire Bros. sign. Jon Bickford said that he wanted to say he told them so, and asked who was the first one to put one of those signs up? Jon Bickford said that it was the City of Montgomery. Rebecca Huss said that Ransom's sign was up first, but either way the Brookshire Bros. sign is worse and it is apparently legal. Rebecca Huss said that since the Planning and Zoning Commission has done a good job in other things, she would like them to extend their mandate to look at updating the sign ordinance. Mr. Yates said that he would advise the Commission.

**ADJOURNMENT**

Rebecca Huss moved to adjourn the meeting at 8:14 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor Kirk Jones

**MINUTES OF PUBLIC HEARING and REGULAR MEETING**

**January 23, 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  
                  John Champagne, Jr.   City Council Place # 2  
                  Rebecca Huss             City Council Place # 4  
                  Dave McCorquodale   City Council Place # 5

Absent:         Jon Bickford             City Council Place # 1  
                  T.J. Wilkerson         City Council Place # 3

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 6:02 p.m.

1. **Receive Final Report from Planning and Zoning Commission their Public Hearing held on January 22, 2018 for the purpose of giving all interested persons the right to**

appear and be heard regarding the proposed expansion of the right-of-way of the City's Corridor Enhancement District from 300 feet to 750 feet. Two amendments to the District guidelines have been proposed to be added. There are no changes recommended for the District of FM 149. The two proposed amendments to the District guidelines that have been proposed to be added are:

- a. A new area for the District is proposed on FM 1097 from the east boundary of the City limits to FM 149. The District boundaries will be 300 feet on both sides of FM 1097; and
- b. To extend the District boundary area from 300 feet to 750 feet on both sides of SH 105 within the City limits.

Mr. Yates advised that the Planning and Zoning Commission met last night, with approximately 20 citizens in attendance. Mr. Yates stated that he would say that there was not opposition to the proposal. Mr. Yates said that there was one person that had a building that was about to be torn down and their concern was about the reconstruction of the building and whether they would have to construct the building according to the new standards. Mr. Yates said that he had advised that person that he thought that the building would have to conform to the standards because the Code requires that when there is more than 50 percent of a structure demolished, you are required to build it according to the current guidelines. Mr. Yates said that following the Planning and Zoning Commission Public Hearing all the members present voted unanimously to recommend the approval of the Corridor Enhancement District Ordinance.

Dave McCorquodale moved to accept the Final Report from the Planning and Zoning Commission. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

2. **Public Hearing** - for the purpose of giving all interested persons the right to appear and be heard regarding the proposed expansion of the right-of-way of the City's Corridor Enhancement District from 300 feet to 750 feet. Two amendments to the District guidelines have been proposed to be added. There are no changes recommended for the District of FM 149. The two proposed amendments to the District guidelines that have been proposed to be added are:

- a. A new area for the District is proposed on FM 1097 from the east boundary of the



City limits to FM 149. The District boundaries will be 300 feet on both sides of FM 1097; and

- b. To extend the District boundary area from 300 feet to 750 feet on both sides of SH 105 within the City limits.

Mayor Jones convened the Public Hearing at 6:05 p.m.

Mr. Yates reviewed the provisions of the Corridor Enhancement District with maps detailing the areas involved. Mr. Yates advised that the existing ordinance was passed in 2008, and called the O'Reilly or Beautification Ordinance, and the City Council had stated that it was to enhance the appearance and perception and influence the ambiance of the City. Mr. Yates stated that the Texas Local Government Code authorizes the City Council to regulate the erection, construction and reconstruction of buildings inside the City. Mr. Yates said that the City Council went through this same process in 2008, with the Planning and Zoning Commission review of the ordinance, and the Commission recommended the ordinance to the City at that time.

Mr. Yates said that the original ordinance is saying that SH 105 extending from the eastern boundary of the City limits to the western boundary of the City limits, and FM 149 extending from the northern boundary of the City limits to the southern boundary of the City limits, and the entirety of the Lone Star Parkway extending from SH 105 on the east to SH 105 on the west is included in the Corridor Enhancement District. Mr. Yates said that the existing ordinances stated that industrial area is partially exempt from this requirement, provided that the main entrance of the building visible from the main entry ways and corridors shall be 100 percent covered with the improved materials and the remaining exterior facades must be at least 50 percent covered by wainscoting or approved materials. Mr. Yates said that the Corridor Enhancement area materials must be natural stone, brick, wood, fiber or cement siding (Hardiplank), stucco or similar materials, precast concrete and exposed aggregate concrete, and any other acceptable material that is not metal, or as City Council approved about six months ago, they excluded cement blocks.

Mr. Yates said that during August of 2017 City Council and the Planning and Zoning Commission held a Joint Workshop Meeting that was a public meeting, because the

Planning and Zoning Commission had thought about extending the distance of the Corridor Enhancement District from 300 feet on SH 105 to 750 feet, because of the Kroger Store. Mr. Yates said that in 2008 they thought that development along SH 105 would be close to the highway, but as Kroger built they were way beyond the 300 feet. Mr. Yates said that Kroger built a very nice brick building, but everyone realized that they were setting the standard of where the development would be along SH 105 so there was a discussion about whether or not to go from 300 feet to 750 feet. Mr. Yates said that since that time the topic has been on the Planning and Zoning Commission's agenda three of the four months since August, and the Commission settled on the 750 feet guideline. Mr. Yates said that the Commission held a Public Hearing on the Corridor Enhancement District Amendments last night.

Mr. Yates said that something else that has changed since 2008 is the development of FM 1097, which is going to be more commercial development than residential, so what is proposed is to go to 750 feet from the center of the right of way along SH 105 and to add the area of FM 1097 at 300 feet on either side of the highway.

John Champagne asked if the map was representing what Mr. Yates is discussing. Mr. Yates advised that it was the area involved. Mr. Yates said that he had received several calls over the last couple of weeks asking why they were receiving notices of the Public Hearing. Mr. Yates said that State law requires this particular type of notice and the boundary to let everyone know about the changes.

Mayor Jones said that he wanted to state that regarding the map, the FM 149 portion is not shown, because there is no change being made to that area, but all of FM 149 inside the City limits is included in the Corridor Enhancement District, at a distance of 300 feet. Mayor Jones said that citizens on FM 149, have been operating under the ordinance since 2008.

An unnamed citizen asked if the City was talking about 300 feet on each side of the road. Mr. Yates said that was correct and said that what it has been since 2008. A citizen asked about FM 1097 and what the setback would be. Mr. Yates advised that it would be 300 feet on either side of the highway.

Mayor Jones asked if this ordinance applied to both commercial and residential. Mr. Yates said that was correct, it would apply to both commercial and residential. Mayor Jones said there were not too many metal paneled homes being built. Mr. Yates said that this ordinance would not be retroactive, it would be for future development.

Mr. Mike Newman asked if this would be changing the area along Caroline Street to commercial. Mr. Yates advised that it would not, and said that this does not have anything to do with zoning it is just regarding the façade structure materials. Mr. Newman asked if his home would be grandfathered because it is existing. Mr. Yates said that was correct. Mr. Newman asked if he was to sell his home, would that grandfather status transfer to the new homeowner. Mr. Yates said that it would transfer and go with the land. Mayor Jones said that Mr. Newman was governed by the Historic District, so that would override the Corridor Enhancement District, since it has stricter controls.

Rebecca Huss said that some people received notices because they are within a certain distance of the Corridor, so they are not actually within the Corridor, but in the notification area. Mr. Yates said that Mr. Newman was in the Corridor Enhancement District because it runs in the back of the lots, north of Caroline. Mr. Newman said that Caroline Street is in the Corridor area. Mr. Yates said that the Corridor Enhancement District runs along the lot line, which is just the way it happened to fall and not the way that it was designed. Mr. Newman asked what was the hope and ultimate gain for the City and people with this ordinance. Mr. Yates said that he feels that it is just what they said back in 2008, that it is to enhance the appearance and perception and to influence the appearance of the City. Mr. Yates said that it could be said another way, it is to beautify the highway for property owners and future property owners, just as any building code or provision provides. Mr. Yates said that building codes are for public safety, it is not because the City wants to charge a permit fee, it is where the community joins together to say they want to require the appearance of all the nicer buildings. Mr. Yates said that it is also where the appearance of one metal building in the wrong place could really harm the value of the surrounding properties as well as the appearance. Mayor Jones said that Mr. Yates alluded to the fact that this ordinance was nick-named the O'Reilly Auto Parts ordinance, and after that building was built with just metal panels, the same group that authored the Historic District ordinance came up with this Corridor Enhancement District, which was an overlay over

the other zoning. Mayor Jones said that it is not very strict in controlling things, it just states that you can't have metal panels or cinder blocks, you have to cover it with something else. Mayor Jones said that there are other people in town, developers, that would like it to be more restrictive, but they have not gone there yet and he did not know if they would want to. Mayor Jones said that they have nicknamed the amendment to the ordinance, the McCoy's amendment, because McCoy's main building was within the 300 feet, but their lumber yard building was outside the 300 feet, so it is metal panels, which is what got everyone thinking about the amendment.

A citizen asked what part of the residents on FM 149 is included with this ordinance. Mayor Jones said that all of FM 149 is affected by the ordinance, but it has been since 2008, so if you own a home there, it is probably not made of metal panels and, unless you are going to build a home out of metal panels, it will not affect them. Mayor Jones said that the commercial sections of FM 149 is where it would have the most effect.

Mr. Mike Ogorchock said that in March of 2015, they prepared and submitted a POA and deed restrictions, which they did on March 10, 2015, and they filed it with the County Clerk on March 18, 2015, then City Council approved the PID on March 28, 2015. Mr. Ogorchock said that part of what he is reading in the Corridor Enhancement District in Section 98.391 Exceptions and Exemptions, which states that the provisions of this Article shall not be construed to apply to property located within any planned development district in which deed restrictions have already been approved by the City. Mr. Ogorchock said that if the deed restrictions have not been officially approved by the City, but the City requested that they prepare them and file them with the County, to him that is the same thing. Mr. Ogorchock said that they do not think that they have done anything but enhance the property, and said that it was one of the best looking properties around. Mr. Ogorchock said that they require any fascia facing the highway to be stone and/or stucco. Mayor Jones said that they might have to spend some time outside this meeting to discuss the deed restrictions and how it applies to this new ordinance. Mayor Jones said that if Mr. Ogorchock is doing what he is saying he is doing, by everything that is facing the highway, then he is probably going to be in compliance. Mr. Ogorchock said that the only thing that they are not in compliance with is the side fascia, which is metal, and said that the only two remaining buildings in Reserve F are more than 300 feet from the highway. Mayor Jones

said that they will need to discuss the deed restrictions at another time, and said that if this is going to be in conflict with your plans, then they need to discuss how to deal with that. Mayor Jones said that he felt that they could work the issues out. Mr. Ogorchock thanked City Council. Mayor Jones asked if the City Attorney agreed with that information. Mr. Foerster said that they might need to table the ordinance so that they can address this issue, and said that he had several emails back and forth with Mr. Ogorchock and did copy the City Administrator and the Mayor. Mr. Foerster said the question that he was looking at was when the PID was finally approved, he was asking if there was anything in the reimbursement agreement or service and assessment plan that spoke to the deed restrictions or any other improvements to the buildings in the PID. Mr. Foerster said that the only thing that does speak to the buildings, is the deed restrictions themselves. Mr. Foerster said that when you look at the deed restrictions and the other documents from 2015, those documents and the Agreement between the City and the developer, did not really speak to improvements regarding the structures themselves, it spoke to the drainage, streets, utilities, etc. Mr. Foerster said the deed restrictions did speak to the buildings, but it does not appear that they were incorporated into the agreement that they have with the developer. Mr. Foerster said the deed restrictions further provide “that any improvements or design guidelines” (paragraph 3.4 of the deed restrictions), which he had not had a chance to review, “must be acceptable to any government authority”, which would include the City of Montgomery, so it contemplates, as he reads it, that any deed restrictions that do not satisfy the City ordinances will not supersede the City ordinance, but will be subject to the City ordinance. Mr. Foerster said that the facility that they have there appears to be a very attractive facility and he did not think that this amendment to the Corridor Enhancement District as he knows, was really focused on the PID, he felt that it just came up today when Mr. Ogorchock brought it to their attention. Mr. Foerster said that he is not prepared to recommend that the Corridor Enhancement Ordinance be approved tonight if they still need to address and clarify how the deed restrictions and previous agreements might affect Mr. Ogorchock’s development of the property. John Champagne said that it was his understanding that there is an apparent conflict between what was initially agreed upon, in terms of deed restrictions, and the new Corridor Enhancement District ordinance, regarding this development. Mr. Foerster said that he could not say for sure that there is a conflict yet because he has not studied the information, but it would appear that the deed

restrictions, which he did not think were ever approved by City Council, they did require deed restrictions as they would from any development. Mr. Foerster said that he did not have any record that this City Council ever approved or needed to approve those deed restrictions, they merely directed Mr. Ogorchock to have the deed restrictions that would provide a mechanism for design guidelines for any structure in that park. John Champagne said that he is assuming that is the crux of the concern right now. Mr. Foerster said that was correct. Mayor Jones asked if by approving the PID and requiring him to have deed restrictions did they, by default, approve the deed restrictions. Mr. Foerster said that was the question that he had. Mr. Ogorchock said that he had been told that the City was going to require a set of deed restrictions and a POA, which was a precondition. Mr. Yates said that the City never saw the deed restrictions. Mr. Ogorchock said that they submitted them to the City, and obviously they did not put them in front of City Council for approval; it was probably an attachment to the PID.

Mr. Yates said that there are two ways of looking at it, one way, if they approved the ordinance, and it turned out that they needed to change it to satisfy the legal requirement of Mr. Ogorchock's property, that could be done. Mr. Yates said if they do not approve the ordinance tonight, and someone came in with a building permit, between tonight and the next meeting, then on FM 1097 and outside the 300 feet the City would not have any recourse. John Champagne asked if they could approve the ordinance with a caveat. Rebecca Huss said if they approve the ordinance, either he is grandfathered or they can give him a variance, which is the way that it could go. Mr. Foerster said that was exactly what he was going to suggest, and he had mentioned that in an email to Mr. Ogorchock that either he qualifies already, or if he does not, the City Council could consider a variance to that ordinance with respect to that park. Rebecca Huss said that she felt Mr. Yates was right, if they think it is important enough to preserve the quality of the building that is going on, then they do not want to hold it up for something that is dealing with something that has already been built and risking that something new will be built that does not meet our standards. Rebecca Huss said that she would prefer to deal with this matter offline and as needed. Mayor Jones said he agreed with that and said they can work it out through other channels.

Mayor Jones asked that anyone wishing to speak at the Public Hearing to stand and state

their name for the record.

Mr. Art Jansen said that while he did not like losing 300 feet of unrestricted property, he thinks that the effort that the City has made to upgrade the 300 feet, especially along FM 1097 and areas, will be an improvement in the value of the properties. Mr. Jansen said that for every square foot that they lose as unrestricted property they will make up per square foot in other areas. Mr. Jansen congratulated the City Council for doing something good for the City. Mayor Jones thanked Mr. Jansen.

### **Adjourn Public Hearings**

Mayor Jones adjourned the Public Hearing at 6:32 p.m.

### **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.

Mr. William Simpson, City resident who lives in Buffalo Springs, spoke regarding the last Public Hearing regarding the surcharges and rates that LDC is charging Buffalo Springs. Mr. Simpson said that he was asking for help and is here to be on record, and wanted to know if anything has been done since Sara Countryman spoke last week, but something needs to be done and they need help. Mr. Simpson said that their rates are going up, they are being charged a connection fee of \$21,000. Mr. Yates advised that connection fee is reimbursement for the relocation of the LDC gas line on Lone Star Bend. Mr. Simpson said that their neighborhood is paying for that cost. John Champagne said that all the LDC customers are paying that fee. Mr. Simpson said that there were not that many customers, it is the eastern part of the City, plus they are paying legal fees. Mr. Simpson said that he needs to file a formal letter to the City, which is the process that is on the Railroad Commission's web site, not to call Will Metcalf or the Railroad Commission. Mr. Simpson said that somehow a group needs to get together and find out what we need to do to file the formal complaint so they can get something done. Mr. Yates said that he was in the process

of trying to figure out a solution. Mr. Simpson said that the problem is that until something goes, they are probably going to get tired of seeing him because he is going to come to every meeting or once a month to find out what is happening. Mr. Simpson said that they have public meetings about everything else, so why did they get blindsided when maybe everyone knew this was coming on. Mr. Yates asked if Mr. Simpson realized that City Council voted against the reimbursement. Mr. Simpson said that he understood that, but something was filed wrong and asked if that was correct. Mr. Yates said that was according to LDC, but he is still trying to confirm that information. Mr. Simpson said that a little eastern part of the City is becoming the most unaffordable place to live in Montgomery. Mr. Simpson said that it gets frustrating because every day he is hearing a little bit more, which is like a cigarette in a ditch that pretty soon will end up a full fledge grass fire, because the City is getting more and more younger and smarter people that are coming into this neighborhood and things need to change. Mayor Jones said that he would suggest when Mr. Simpson is talking to those folks, to ask them to write a letter also. Mr. Simpson said that is why he is asking for help, because he needs to know what to put in the letters so they do not get rejected. Rebecca Huss asked to confirm that the Railroad Commission has told Mr. Simpson that he has to go through the City. Mr. Simpson said that was correct, as a resident of the City of Montgomery, he has to file his formal complaint through the City. John Champagne said that the City has the Franchise. Mr. Simpson said that if he lived outside the City limits, then he would go directly to the Railroad Commission. Mayor Jones said that letters might help, but said that he could say that between City Council and City staff we will do our best to fix this matter. Mr. Simpson asked if he could get updates or does he need to come to the meetings, while he should come twice a month. Rebecca Huss said that they would like to see him at the meetings, but she would certainly hope that they could get something done. Mr. Simpson said that he felt it was ridiculous that they should have to pay a connection fee for somebody else. John Champagne stated for the record, in the years since he has been on City Council that has been a big problem for him. Mr. Simpson said that in the past, not this Administration or City employees, but there were a lot of deals made way back with developments and other instances, and said that as a community of Buffalo Springs, they are paying for some of those things that were let go in the past. Mr. Simpson said that he feels like a lot of the old stuff is coming to a head, such as the poor construction on the granite that was allowed to go in at Buffalo Springs, now the subdivision has to pay for that, not the developer. John Champagne said that was a whole other matter. Mr. Simpson said he knew that, but some of the stuff that was granted to some of these developments on the east side, need to be looked into



to see if there is any way that they can do something or change anything that was given. John Champagne said that this is an opportunity for them to vent and express their issues, but this is not anything new for this City Council. John Champagne said that he reviewed the agreement again last night, and it is not an exclusive agreement that LDC has with the City, the issue comes in with infrastructure and when a line is laid for service you are pretty much locked in so the developer or builder is the point of contact at that point. John Champagne said that CenterPoint has every opportunity to do that, as well. Mr. Simpson said that he wants to ask for help from the City.

### **CONSENT AGENDA:**

3. Matters related to the approval of minutes for the Public Hearings and Regular Meeting held on January 9, 2018.

John Champagne moved to table the approval of minutes from the last meeting. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

4. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY,  
TEXAS REGARDING STAR OF TEXAS SENIORS LTD. AT LONE STAR  
PARKWAY FOR SUPPORT AND LOCAL POLITICAL SUBDIVISION FUNDING.

Rebecca Huss said that in the comments it states that there is no numbers that the City would be supporting the Star of Texas Seniors Ltd., and asked if they should assume that it is not going to be a mega complex and it will just be 20-30 apartments. Mr. Yates said that they had advised him that it was going to be the same as was proposed last year. Mayor Jones said that the City Council did approve this same action last year.

John Champagne asked for clarification as to a local political subdivision funding. Mr. Yates said that both, Blazer and Lone Star have asked for \$2,000 help on their water tap fee. Mr. Yates said the local political subdivision funding would be the City's funding.

5. Consideration and possible action regarding adoption of the following Resolutions:

- a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS REGARDING BLAZER BUILDING TEXAS, LLC FOR SUPPORT AND LOCAL POLITICAL SUBDIVISION FUNDING; and
  - b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS REGARDING BLAZER BUILDING TEXAS, LLC FOR SUPPORT OF TWO TIMES PER CAPITA
6. Consideration and possible action to declare two (2) stoves from the Community Center to be declared surplus property.

Rebecca Huss asked if it was really a good idea to sell used gas stoves, from a liability stand point. Mr. Yates said not unless they think that there is something wrong with the stoves. Mr. Mike Muckleroy, Director of Public Works said that there was nothing wrong with the stoves. Mr. Yates said that he will ask with Rick Hanna, City Building Inspector that question before they sell the stoves.

7. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery, Texas and Madsen & Richards, LLC (Dev. No. 1803) for development located at 610 Liberty Street, Montgomery, Texas 77356.
8. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery, Texas and BW Montgomery Investment LLC for development located at Restricted Reserve "H1" of the Buffalo Springs Shopping Center, Phase 2, for BlueWave Express Car Wash located at 20210 Eva Street, Montgomery, Texas 77356.

Rebecca Huss said that she was a little concerned with the way that the Escrow Agreement is written, because they are talking about the BlueWave Express Car Wash tract, but it is a commercial subdivision of 18.48 acres in which they will buy some or all of it, and she would like to be specific that the amount of the Escrow Agreement does not even remotely

cover any development of the entirety of the tract, but merely the amount of land that the car wash will be located on, regardless of how much they purchase. Mr. Roznovsky said that one clarification is referenced in Restricted Reserve H1, which is only the .82 acres portion of the tract, and also the Exhibit A that is included, is the metes and bounds description for the .82 acres along with that Exhibit to clarify that H1 is part of the 18.48 acres. Mr. Roznovsky said that the intent is that it is only applicable for Restricted Reserve H1, which is the .82 acres, which is platted.

9. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION BY THE DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TXCDBG) CONTRACT NUMBER 7217320.

John Champagne moved to approve the Consent Agenda as presented. (Items 3-9) Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

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

10. Consideration and possible action regarding Montgomery Economic Development Corporation Report - Randy Moravec, MEDC Treasurer.

Mr. Moravec, MEDC Treasurer presented the MEDC Report to City Council, which is the inaugural report of the MEDC to the City Council. Mr. Moravec stated that this particular report was for the entire calendar year of 2017 and in the future the MEDC plans on issuing the report on a quarterly basis to try and get the report to City Council within a month, at the end of the quarter.

Rebecca Huss said that she knew the MEDC had compiled, for the first time ever, and she appreciates it, a total of the 380 agreements or similar agreements that have been entered into and what the liabilities are, and asked that they include that information in the reports. Mr. Moravec said that he would do that, and said that they are over a 25 year period. Rebecca Huss said that might be something that City Council, who have not been here for

25 years, might not be aware of all the contingent liabilities. Mayor Jones asked if Rebecca Huss was asking for MEDC's participation or the City's total, or what. Rebecca Huss said that if it is something that Randy Moravec has been involved with. Mr. Moravec said that he simply obtained the information when he first got on the MEDC Board, and said that a lot of the information does not change from one year to the next, but he could work with Mr. Yates. Rebecca Huss asked if Mr. Moravec had put the information into a spreadsheet. Mr. Moravec said that he had not, but said that at one time he had made an attempt and it was quite cumbersome, but he could revisit that information. Rebecca Huss said that what made her think of that was the contingent liability related to that information is something that they need to keep in mind when they are doing anything. Mayor Jones said that another thing that kind of complicates things is some of these contributions are one time and others are over a ten year period. Mr. Moravec said that he will revisit that information. Mr. Moravec said that there was also a request or concern about making a distinction between full time and part time jobs, so-called core jobs; those really do not relate to retail activity, which is what all of these projects are. Mr. Moravec said that once the medical center is finished and employs positions, they will be core positions and they will try to identify them separately for City Council.

Mr. Moravec asked for feedback from City Council. Mayor Jones said that for the sake of all the folks attending, he asked Mr. Moravec to talk about the total numbers. Mr. Moravec said that the employers would include, the Kroger Center, which includes the Kroger Store as well as the associated businesses that are along that development, McCoy's Building Supply, Pizza Shack that will be opening February 5, T-Mobile Strip Center, Long View Mini Golf and Heritage Place II. Mr. Moravec said that they have 128 full time jobs, 167 part time jobs, Mrs. Shannan Reid and Mr. Yates were the individuals that had compiled this information and so they tried to identify those positions that were either local or came from another area. Mr. Moravec said that they had a good amount of people that are actually working in the City of Montgomery zip codes and are being employed locally. Mayor Jones said that if they have a 77356 or 77316 zip code they might not be in the City, but they are in the general area. Mr. Moravec said that on the other page they have the Director's various activities that she participated in and was responsible for. Mr. Moravec said they also showed how many building permits were issued, showing separately the

residential and commercial permits with their valuations. Mr. Moravec said that once they get the 2018 appraisals from Montgomery County Appraisal District, they will be able to confirm the values.

Dave McCorquodale thanked Mr. Moravec for the information and said that it was a good snapshot for those that do not get a chance to come to the MEDC Meetings. Dave McCorquodale asked if quarterly reports were manageable. Mr. Moravec said that he thought so, and said that the information will be recent enough and they will be able to compile a report. Mr. Moravec said that if they did it less frequently, such as semi-annual or annual, some of the information becomes stale. Mr. Moravec said that now that they have a template, he feels that Mr. Yates and Mrs. Reid will be able to plug in the figures very easily. Mr. Moravec said that if City Council has questions or they see that there are things that are not included, he asked them to please let them know so that they can accommodate the request.

Rebecca Huss said that she definitely appreciated the chart, and said that there was an epic amount of revisionist look at last year especially in terms of the activities on the FM 149 project. Rebecca Huss said that the last item on the second bullet point of the activities is something that MEDC passed on and the Director was asked not to be involved with. Rebecca Huss said that she did not know what the land use and zoning items on the report were for, because the City has a Planning and Zoning Commission and they do a lot of good work, and the City relies on them to update a lot of things. Rebecca Huss said that as the gentleman that spoke during the public hearing, that quality that we are trying to bring to Montgomery, and the nuts and bolts of that come from the Planning and Zoning Commission, not anywhere else. Rebecca Huss said that she would like to have some reality on some of the bullet points in the report. Rebecca Huss said that hotel development is something that the First Hartford people and Jonathan White's idea brought to us rather than any MEDC, while MEDC might be a participant and they look forward to that, but it is still a developer lead idea, not a staff idea. Mr. Moravec said that they did not mean to imply that the Director was responsible for those items, it is just that she was a participant and provided some input in those activities, but was never intended to imply that the Director was solely responsible for those activities. Rebecca Huss said that looking at the

check register it seems like some of the things that MEDC has been accomplishing have been on the to do docket for years and have been outsourced and we are paying a third party to do those things. Mr. Moravec said that is correct. Mayor Jones said that was done intestinally. Mr. Moravec said that when City Council is preparing the budget in the spring, and if there are things that the City Council would like for them to consider, please let them know in advance and they will try to accommodate those requests during the budget process. Rebecca Huss said that their particular contribution she felt this will be something that they can use going forward and hopefully compare year to year what they have accomplished, how much money they have and what is feasible. Mr. Moravec said that hopefully they will have more resources with the sales tax, and said that they had a huge amount of sales tax that came in during this past month. Rebecca Huss said that half the time the State takes the funds back.

Mayor Jones thanked Mr. Moravec, Mrs. Reid and Mr. Yates, and said that it was a good report.

Rebecca Huss moved to accept the MEDC Report as presented by Mr. Randy Moravec. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

#### 11. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates advised that he met with the Planning and Zoning Commission and prepared information regarding flashing electronic signs, which went really well. Mr. Yates said that he feels like they will be ready to look at a draft ordinance at the next meeting. Rebecca Huss asked if Mr. Yates had asked them about plywood signs also. Mr. Yates said that he had not. Mr. Yates also reported on his meetings and activities throughout the month. Mr. Yates stated that they had conducted a Facilities Tour on Saturday, January 13<sup>th</sup> but they will need to reschedule the weekday Facilities Tour because of the ice storm. Mr. Yates said that they are working on getting the financial information for Waterstone regarding the waterline because the owner is interested in paying. Mr. Yates said that they were working on the grand accounting for the costs related to the waterline and what the

reimbursement would be and how much funds are in the escrow account fund, so he considered that a positive step.

Mr. Yates advised that he had made an emergency purchase during the month. Mr. Yates advised that Mr. Muckleroy had come to him and said that the booster pump at Well #3 had gone down and needed to be replaced. Mr. Yates said that Well #3 is the Catahoula Well and principal well for the City. Mr. Yates asked Mr. Muckleroy for an explanation as to why he felt that it was an emergency. Mr. Muckleroy advised him that there is only one pump running four hours a day, and if they lost one of the pumps they could be in a service flow situation and not be able to provide the proper quantity of water. John Champagne asked to confirm that they acquired a backup pump. Mr. Yates said that was correct at a cost of \$5,900. Rebecca Huss said that she thought it was interesting that before they even paid off the debt for the Catahoula Well, the booster pump is obsolete. Mr. Williams advised that this was a booster pump separate from the well pump, which were there prior to the Catahoula Well.

John Champagne said that he and Mr. Yates had spoken briefly about the development and building permits, and currently the average time for a builder to get a permit should be two days. Mr. Yates said that was after the plans have been approved, and getting the plans approved can take up to a week. John Champagne asked about a residential home, and whether that would take a week. Mr. Yates said that it could take a week to approve the plans for a residential home. Mr. Yates said that he is in the process of changing it to where Rick Hanna can approve the plans rather than sending them off to Mr. Chapman. John Champagne said that he would encourage Mr. Yates to see if they can shorten the time for approval. Dave McCorquodale said that as a point of comparison, he works with a lot of cities in the Houston area, and a lot of them are 7-10 business days to get plans approved for a swimming pool, and said that the plans and packs that are submitted are not a one-form application. Dave McCorquodale said that drawings are not small. John Champagne said no they are not. Mayor Jones asked if changing over to Rick Hanna shorten the turnaround time for plan reviews. Mr. Yates said that it would. Mr. Yates said that he also has a draft memo that he sent around today about

building permits and who signs the permits, and for new permits he would sign them, but mechanical and trades, after the initial permit has been issued, can be signed by Autumn Redman, Utility Billing and Permit Clerk. John Champagne said that if Mr. Yates is out of town, he is sure that there will be a Plan B in place. Mr. Yates said that there would be.

- B. Public Works Report – Mr. Muckleroy presented his report to City Council. Mr. Muckleroy advised that their heavy trash weekend had a low turnout due to rain. Mr. Muckleroy advised that they had winterized all the facilities, repaired a sinkhole on the sewer line on Eva Street across from Lift Station #5 and continued the hydrant tagging project. Mr. Muckleroy advised that two of his staff received their Wastewater Collection II licenses.

Mr. Muckleroy reported that they had located the source of the water accountability issue. Mayor Jones asked about the water accountability issue and asked how they solved the problem. Mr. Muckleroy advised that Mr. Williams had emailed him and advised that he thought that it looked like the source might be coming from around Waterstone because that lift station had a high run time. Mr. Muckleroy advised that they went up to the lift station and they could see a clear stream of water coming in heading back toward the Plez Morgan area, so they backtracked it and went all the way back to the well, because there is nothing on the sewer line going that way. Mr. Muckleroy said that the cooling tower fill valve had stuck, and is not something that is checked on a daily basis. Mr. Muckleroy said that the fill valve had gotten stuck wide open and it is designed for the overflow to go into the sanitary sewer system, so as fast as it was pumping in, it was going directly into the sewer. Mayor Jones asked what size line was involved. Mr. Muckleroy advised that it was a 1-inch line. Rebecca Huss said that it was 1.2 million gallons during the prior month. Mr. Muckleroy said that to eliminate the problem in the future, there was a meter on that feed line, so what they did was put a Beacon Meter on it and they have it set up online so that if it starts running as soon as it hits 24 hours it will email him that there is an issue. Mayor Jones said good job.



John Champagne said that Mr. Muckleroy had indicated that Ryan Thomas and Francisco Salas had passed Wastewater Collections II test, and asked what that means to the community. Mr. Muckleroy said that they are both legally able to work on anything in the sewer collection system without having another operator on site. John Champagne asked if that lowered the City's cost or make us more efficient. Mr. Muckleroy said that it makes us more efficient because when they are licensed, he can send one guy to work on a problem and not have to worry about another person with a license. John Champagne said that when he lists that the workers got a license, he wants to know how that makes them better, which Mr. Muckleroy did so, to him that is important. Mr. Muckleroy said that, by law, they are required to have certain licenses to work on the system. Mr. Muckleroy advised that during the month they had 5 water taps, 3 sewer taps, 4 water leaks and 1 sewer stoppage, they added more Christmas decorations to Cedar Brake Park, they had the Christmas in Montgomery set up and clean up, turned off the pumps at Memory Park during the hard freeze days to prevent damage. Mr. Muckleroy stated that the docents at Fernland reported 467 visitors for the month and they provided 20 tours, and for the calendar year totals they had 8,277 visitors and they provided 498 tours. Mr. Yates said that last month Mr. Muckleroy reported that they had a tree fall down on the electric line at the lift station and they received a \$12,000 insurance check a couple weeks ago.

John Champagne said that he has seen a number of bell valves fly off lately, so there is going to be some water issues with residents and asked how that is going to be handled. John Champagne said that he turned off one himself. Mr. Muckleroy advised that most people did turn them off, however, they did find on Monday when they came in they found a couple of meters that were running full tilt, one was the sales trailer on Lone Star Bend, because they did not winterize anything and they had a busted line that was running. John Champagne asked how that was going to be handled from a billing standpoint. Mr. Yates advised that they can speak to him and he will charge them for the water that goes through the meter. Mayor Jones asked if they would give them a break on the sewer charges. Mr. Yates said that he

would. Mr. Muckleroy said that they would give them a break on the sewer, as long as they know that it did not go into the sewer.

Rebecca Huss asked about the monthly door hangers, and whether they were really necessary, because if they are talking about efficiency and best utilization of people's times, since notices are already sent in the mail. Mr. Muckleroy stated that this will need to be a separate item on the agenda, and advised that he has already spoken to Mr. Yates regarding the matter. Mr. Muckleroy said that Mr. Yates has asked him to prepare something to bring to City Council, because he would like to do away with the door hangers, because it is the same addresses each month that use it for a notice of when they pay their bill. Mr. Muckleroy said that when they receive the door hanger the customer has already received a bill and a late notice in the mail, and in his opinion, because it is the same addresses month after month, he would like to do away with them and go to a straight day of the month, such as, the second Wednesday of the month would be cut off day if you have not paid your water bill, no matter what day of the month it is. Rebecca Huss said that by the time they get around to 40 addresses, getting in and out of the truck takes a lot of time. Mr. Muckleroy advised that it takes three hours minimum to put out the 40-50 door hangers. Mr. Yates said that a large majority of people that get the door hangers come in right after they received the notice. Rebecca Huss asked Mr. Yates if they need to have a resolution or will it just be guidance. Mr. Yates advised that it would be an ordinance change. Rebecca Huss said that she has been looking at the information month after month, and those hours add up. Mr. Muckleroy said that Montgomery is one of the few cities that uses the door hangers, they don't take the time to hang a notice on the customer's door after they have already been notified twice.

- C. Police Department Report - Chief of Police James Napolitano presented his report to City Council. Chief Napolitano said that he wanted to bring up two things, first he thanked Officer Bracht for assisting him regarding putting the data together to get the trends of how more businesses and people in the City has changed for the last several years, which they are getting completed. The Chief advised that this year at the end of 2017 the City itself had 10,459 reports through the dispatch system that they had to generate compared to last year that was 8,046. The Chief

advised that he had included a sampling of the types of calls that they are receiving and what the officers are going through on a daily basis.

Chief Napolitano advised that he had also included the Racial Profiling Report, one with warnings and one without warnings, and the reports are half and half, split down the middle. The Chief stated that there has been a new law that was passed by the State Legislature called the Sandra Bland Act, which means from now on not only do they have to do this report, they have to give every individual a piece of paper that states that if they need to make a complaint or if they would like to say something nice about the officer, they can call a given number. The Chief advised that they have to report every contact that they make with any citizen, and report their racial status on the report. Mayor Jones asked if someone up in Austin looks at these reports and says that they are out of line. The Chief advised that what they can do is if they receive a complaint from a citizen, and if they see that the City of Montgomery receives so many complaints, they will send an investigator down here to investigate how they are conducting their traffic stops and whether they are racial profiling. Dave McCorquodale asked about the telephone number that was to be given out and asked if that would be a local number and who would be the contact person. The Chief advised that it would be the phone number to City Hall, so if they want to complain about an officer, they would call the station and either speak to him or to the City Administrator and say that they want to make a complaint, then they would make an official complaint. The Chief advised that they would ask the person to come in, but they will also take the information over the telephone. Dave McCorquodale asked if they had to do anything in house to make sure that our internal process to review that complaint is being done properly. The Chief said that he has to report those complaints to the State. John Champagne said that the report shows that they are really focused on Caucasians. The Chief advised that was correct; if they are violating the law that is who they pull over, but did say that most of the time they can't tell who is driving the vehicle. Chief Napolitano said that this resulted from some bad police work conducted by some people. The Chief advised that they are trying to do the best that they can do. Mayor Jones said that they understand the City's demographics, but if they were in

Houston the numbers would look a lot different. Chief Napolitano said that 80% of the people that are arrested do not live inside the City of Montgomery, they come through the City. The Chief said that they have a large influx of students and shoppers, which they have seen a lot more traffic with the new Kroger Store. John Champagne said that the Police Department is doing an excellent job.

- D. Court Department Report – Interim Court Administrator Kimberly Duckett presented her report to City Council. Mrs. Duckett said that with the new personnel changes the Court numbers are still on the rise and very consistent. Mrs. Duckett advised that her new Deputy Court Clerk, April Dupree, came to the Court with experience, so she is very knowledgeable and able to catch on very fast. Mrs. Duckett said that they are trying to bring things up to speed with the previous resets and trying to compile all of the Court dates to move forward to have more structure. Mrs. Duckett said that she will be getting with Chief Napolitano regarding the up and coming warrant roundup, which will occur in March 2018, so in April they should see an increase in the warrant notifications. Mayor Jones asked if the Court was staying caught up. Mrs. Duckett advised that they had two resets prior to her being appointed Interim Court Administrator, so they are trying to compile all of that, and February 1, 2018 is juvenile court, February 22, 2018 is a massive attorney docket, and March 22, 2018 is all the warrants that the warrant officer has called. Mrs. Duckett said that the Municipal Court is getting caught up. John Champagne asked about the reset cases. Mrs. Duckett said that a couple of months ago, prior to the transition, several dockets were reset and that was approximately 40-50 people that had their court date reset. Mrs. Duckett said that there are some defendants that have been drawn out for months, so they are trying to get caught up.

Rebecca Huss asked about the \$41,000 of collections, and asked why that figure is not the same as the \$37,000 total on the previous page of all the sums. Mrs. Duckett said the \$37,000 is actually court costs, fines and fees, and they have a bond amount that comes in for the deferred disposition accounts. Mrs. Duckett said that when the deferred position is concluded they reverse the payment back into the system, which on her report shows the bond amount of \$4,078.20 and then you add the \$37,256.86, which gets you to the \$41,335.06. Mrs. Duckett said that every month

she has to apply the bond, once the accounts are dispositioned out of the system. Rebecca Huss said that she has not seen the previous pages. Mrs. Duckett said that she prefers the breakdown and said that it gives more knowledge. Rebecca Huss said absolutely. Rebecca Huss then asked about the number of violations at 264, but in the past they have had 400 violations and asked is Mrs. Duckett knew why. Mrs. Duckett said that it was due to the turnover and they have had officers that have been out, such as Officer Carswell, who is on leave, but they are actually picking back up on citations. Rebecca Huss said that it looked like there were fewer citations, but more money. Mrs. Duckett said that was due to them working on the warrants and collections, and they are making phone calls to advise people that they have outstanding tickets and when their court date is because she would prefer not to have a large docket. Mrs. Duckett said that as long as she can make phone calls and send out notices to help people come in and take care of their citations, which will help both the court and the defendants. Rebecca Huss said that presumably the citations won't go to collections, as well. Mrs. Duckett said that if it goes to collections they have to split the fines with them. Rebecca Huss asked if they could get the year end charts that show all the different warrants and citations, because she likes to see the year end information. Mrs. Duckett said that they are working on that information, and said that prior to her taking over, a lot of documents were wiped off of the computer so she did not have that form to generate. Mrs. Duckett said that she is going to be working on ways to inport different charts. Rebecca Huss thanked Mrs. Duckett. Mayor Jones asked if the warrant officer was producing. Mrs. Duckett said yes, the warrant officer is producing and is making a lot of phone calls, which is why they have so many on that particular docket, which is pretty much a warrant only docket to help people come in and get them back in front of the judge. John Champagne said an outstanding job. Mayor Jones thanked Mrs. Duckett.

- E. Utility/Development Report – Mr. Yates said that last month the utility department brought in \$104,540, permits were \$8,624, and the Community Building brought in \$795. Mr. Yates advised that there were 15 new water accounts, 6 disconnected accounts, and a total of 627 active accounts. Mr. Yates said that they had 4 new residential building permits, 1 new commercial permit, and 2 photography permits

for Fernland for a total of 20 photography permits. Mayor Jones asked if that was an annual renewal. Mr. Yates said that it was an annual permit. John Champagne asked if the permit fee was \$250. Mr. Yates said that was correct. Mr. Yates said that there were 2 irrigation permits, 7 electrical permits, 4 mechanical permits, 8 plumbing permits and 4 sign permits for a total of 32 permits issued. Mr. Yates advised that the software that Mr. Hanna has purchased has really been a help to Ms. Redman in keeping track of the flow of the building permits and inspections. Mr. Yates said that they really did not pay anything extra for the software; Mr. Hanna purchased the program for \$25,000 - \$30,000, and we were able to tie into the program because he did that for all of his clients, which is working out well. Mr. Yates said the City account consumption as far as the water usage is doing well, and Memory Park was down from 150,000 gallons in October to 116,000 gallons in November and December at 50,000.

John Champagne said that he knew that no motor vehicles are allowed in Memory Park, and said that there were some older people that were walking and some young folks were riding their bikes on the trails, which is probably something that they want in the Park. Mr. Yates asked if they wanted to ban bikes from Memory Park. John Champagne said that kids want to have fun, he just wanted to mention it, and he was not asking them to do anything.

Mr. Yates said that the Buffalo Springs Sewer Plant is staying at 1,000-2,000 gallons consumption.

- F. Water Report – Mr. Mike Williams, with Gulf Utilities, presented his report to City Council. John Champagne asked about the rental pump that had to be installed. Mr. Williams stated that a rental pump was installed at Lift Station #5, because the pump went out due to age. John Champagne asked if the initial pump was being rented. Mr. Williams said that it was not a rented pump, but they had to get a rental pump as a backup, as required by TCEQ, because they always have to have two pumps in the wet well at all times. John Champagne said that they do not have a backup pump in inventory to offset any rental costs that they would incur by doing

this. Mr. Williams said that they did not have a rental pump in inventory that would fit that location. Mr. Muckleroy said that every lift station is different, and they would have to have a backup for every lift station sitting on site. John Champagne asked if there was a reason that every lift station has a different pump. Mr. Muckleroy said that was correct, due to age and pumping capacity. John Champagne said that standardization is not part of the plan. Mr. Roznovsky said that there are two parts, you can have two different 5 HP pumps made that are different makes and models so they would not be interchangeable, but there are some lift stations that require 5 HP and some require 10 HP. John Champagne said that they could standardize on a 10 HP or a 5 HP. Mr. Roznovsky said that is something that they have been discussing, standardizing as they go forward with new lift stations and when they redo lift stations. John Champagne said that they do have a plan that is all written out, how attrition and replacement will take place. Mr. Williams said that they do have a plan, and the written plan is in the process of being done. Mr. Williams said that the average daily flow for December was 170,000 at 42% of the permitted value, which were elevated flows that were due to the leak that they found in the cooling tower, so they should see those numbers come back down. Mr. Williams advised that all effluent samplings were in compliance for December. Mr. Williams advised that from November 18<sup>th</sup> to December 17<sup>th</sup> they had a total flow of 7.951 million gallons of water, 109,000 gallons towards flushing and they sold 6,136,000 gallons resulting in a 79% accountability, due to the previously discussed leak at the cooling tower.

Rebecca Huss asked if they ended the year without exceeding the permit limits. Mr. Williams said that at the end of the year they did exceed the permit level. Rebecca Huss said that it is really going to be embarrassing to explain that we are flushing money down the sewer. Mr. Williams said that the cooling tower just draws water from that plant regardless of which well it is from, but they did go over 591,000 gallons. Mr. Roznovsky advised that through to the end of the year they went over 1.2 million gallons, and said that he has had a conversation with Lone Star Groundwater Conservation District (LSGCD) to let them know what had happened. Mr. Roznovsky said they went back and looked, and there is a period of

time that the water meter was out, so when they did the calculation and value of the run time back in, that is what pushed the amount over the limit of the permit, which is why last month it showed that the City had a relatively good cushion. Mr. Roznovsky said that when they talked to LSGCD, one of the interesting things was the line break during Harvey and the Terra Vista Subdivision estimated amount was right around 1.21 million gallons, so if that line break did not occur, they would have been right at that number. Mr. Roznovsky said that regardless of the reason, the water was used, but said that the City has early conversion credits by putting the Catahoula Well on time, so they have around 127 million credits, so the cost to use the 1.2 million gallons is around \$95.00, a fee that the City pays to LSGCD so that they do not charge a \$4.00 per 1,000 gallon penalty. Mayor Jones asked if that transaction is already in the works. Mr. Roznovsky said the transaction is already in the works, so they had the discussion with LSGCD late last week to go over the numbers, and they are reviewing the information and putting the paperwork together. John Champagne said that instead of \$4 per 1,000 over the limit, the City is paying what. Mr. Roznovsky said they are paying 7 ½ to 10 cents per 1,000 gallons of water, and the \$275 penalty fee plus the \$4 per 1,000 over the 1.2 million gallons. Mr. Roznovsky said that it was a substantial difference since the City had the conversion credits built up. Rebecca Huss said that it was better, although they saved the money, but the leak caused the City to use the conversion credits that they might need later, so that is money that they did not spend this year, but they might spend it 10 years from now. Mr. Roznovsky said that there were a lot of things that were working against the City this year, in terms of water, with the electricity issues and not being able to use the Catahoula Well got us here, but yes, once the credits are gone, they are gone. Rebecca Huss said that she was talking about when you have contractors drilling into the City's water pipes, if you have people who have things that waste 1.2 million gallons of water, etc., those are not things that are \$95 worth of mistakes, that is really a \$4 per 1,000 gallon mistake in terms of actual cost, because the City will pay that later. Mr. Williams asked if that was something that should be in place, if the contractor did drill into the line, that they pay that fee for damages. Rebecca Huss said that you might get lucky and we might not bust the limit for the year, but if they do and they are using their conversion credits it is



a cost. John Champagne said that it is a cost that needs to be recouped, because if we were in business for ourselves this would be a bigger deal. Mr. Williams said that as Mr. Muckleroy stated earlier, they put processes in place to help prevent that from occurring if the cooling tower should do that again, they will catch it right away. Rebecca Huss said that she thinks it is great that if they improve their efficiency and we are basically charging ourselves and spending our maintenance money on doing a better job, but again when other people are doing this, they are not having to pay equally, we are trying to be better stewards of the taxpayers' money.

John Champagne said that the electrical issue is going to come up again and he knows that Mr. Foerster has written a letter to Entergy. Rebecca Huss said that it is heartening that, especially over the last month, there have not been any problems. Mr. Roznovsky said that there was an issue the night of the December City Council Meeting. Mr. Williams said that was when Well #4 failed to prime, which notifies them that there is an issue. John Champagne asked if that occurred this past December. Mr. Williams said that was correct. Mr. Roznovsky said that since that time they have not had any more issues. Mayor Jones said that there has to be something like a voltage regulator. Mr. Williams said that there are devices out there that can clean up the electricity, and it is just a matter of what you want to spend on the equipment. John Champagne said that there has got to be some type of invoice that you can send to Entergy. Mayor Jones asked how much the solution would cost. Mr. Williams said that a rough guess would be at least \$50,000 for that water plant. Mayor Jones said that Entergy is trying, but they are not getting off the hook. John Champagne said that the issue with Entergy is chronic and it is costing the City money. Mr. Williams said that there are other devices that could monitor the electricity to pinpoint when they have a spike and the resulting damages. Mayor Jones asked about putting in soft starts on the motors. Mr. Williams said that they have not been having those issues lately. Mr. Roznovsky said that after Entergy made their last round of improvements, everything seems okay. Mr. Roznovsky said the problem was a power supply issue, which is from Entergy, so they have made improvements and taken things off different legs to try

and improve the supply of power to solve that problem. Mr. Roznovsky said that now they are in the period of is it going to work. Mr. Roznovsky said that they have had one issue since August, 2017 at one of the plants. John Champagne said that the problem is not fixed. Mr. Roznovsky said that they are continuing to monitor the electricity, and letting Entergy know if there is a problem so that they can make supply changes to help.

John Champagne said that he wanted to go on record as saying that “he knows nothing about it, so for him to convey any type of advice would be stupid, but that is why they have the City Engineer.” Mayor Jones asked if they could evaluate the cost of fixing it ourselves. Rebecca Huss said no, she did not see where they should be spending our money to fix a problem that is caused by somebody else. Mayor Jones asked if they are supposed to just sit here. Rebecca Huss said that they need to encourage Entergy, by forceful means, to do their job. John Champagne said that there is a cost to the City, no matter what. Mr. Muckleroy said that what they are saying is that they think the problem is fixed, because they have not had any issues except for the one. John Champagne said that they have an issue. Rebecca Huss said that they have an electrical expert in the audience, Mr. Mike Newman. Rebecca Huss asked Mr. Newman whether he was aware of the issue with Entergy. Mr. Newman asked if they were talking about voltage problems at the pump. Mr. Williams said that was correct. Mr. Newman said that he thought the City had that problem resolved, and Entergy had put the City on a different circuit. Rebecca Huss asked Mr. Newman if he would be willing to maybe work with the City at some point to provide advice on how they are doing and what they should do next. Mr. Newman said that he would be glad to help the City with that information, but first he would have to know all the problems that the City is having and what is happening. Mr. Newman said that he had spoken to the people at Entergy five years ago, some of the engineers that he had worked with in the past to try and get some information, and they did not think that it was their problem. Mr. Newman said that he had advised Mr. Yates several years ago, that if the City is having a problem, they have engineering people with Texas Public Utility Commission (PUC) that can address the problem. Mr. Newman said that you can write a formal letter to

them stating the problems, send them the City's engineering data and Entergy would reply, but they can put some focus on the problem, because the power company's rates go through them. Mr. Williams said that they had drafted a letter. Mr. Roznovsky said that a letter was sent to Entergy, but he did not remember if they sent it to the PUC or not. Mr. Foerster said that the letter did not go to the PUC at that time. Mr. Roznovsky said that they got a response from the letter that was sent to Entergy and they took action to make the improvements, and they went to the monitoring phase to see what the improvements that they made did. Mr. Roznovsky said that there were circuit changes made at Water Plant #2, and they have not had issues at Water Plant #2; the issues at Water Plant #3 on FM 1097 have subsided and they are down to one incident in the last 4-5 months, so they are continuing to monitor the information. Mayor Jones said that they need to acknowledge that Mr. Newman's expertise is out there and Mr. Yates might want to contact him, but they can't solve it all here. Rebecca Huss said that it is good to know that the PUC has engineers that can get involved as an option, so let's use the in-town expertise. Mr. Yates said that Mr. Newman had a conversation with Mr. Glynn Fleming, so they know about Mr. Newman's expertise.

Mr. Williams advised that the amount of the return to the wastewater treatment plant was at 88%. Mr. Williams said that they should see this figure also reduce next month.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised that Houston Street should be ready for asphalt by the end of this week. Mr. Roznovsky said that it was ready last week, but during the cold snap the cement and material supplier shut down, so they were not able to work on Tuesday through Thursday of last week.

John Champagne stated that the curb is only going to be along the Cheatham development. Mr. Roznovsky said that the two curbs stop halfway down. John Champagne said that he saw them digging out the ditch and asked when the trees will be removed. Mr. Roznovsky said the trees are already gone so the ones that are remaining are there, but the others have been cut down.

Mr. Roznovsky said that they did approve plans for Dusty's Car Wash on January 3, 2018, and returned comments to both CVS property and The Shoppes of Montgomery property this month. Mr. Roznovsky advised that the transportation improvement program is the project that they discussed a few weeks ago about attempting to get Lone Star Parkway north on a program to receive funding to improve that and be taken over by TxDOT, and they are schedule to talk to TxDOT on the 1<sup>st</sup> of February.

Mayor Jones asked about the Plez Morgan resurfacing. Mr. Roznovsky said that was initially submitted at the same time as the bridge, and they have been working to get answers from FEMA on the project, and they have struggled to do so. Mr. Roznovsky advised that the new FEMA coordinator for the Harvey Disaster has been extremely helpful in helping the City out to follow up on this project, and he had found that the project has fallen into a dark hole, so he is working to resurrect the project and get it back up. Mayor Jones asked if it would pertain to the previous storms, not Harvey. Mr. Roznovsky said that was correct, it is tied to the Bridge. Mayor Jones said that they sure change personnel often. Mr. Roznovsky said that was correct, but the current contact has been very helpful and consistent in helping the City out with whatever they need with documents and the portal.

- H. Financial Report and Quarterly Investment Report – Mr. Yates presented the report to City Council. Mr. Yates advised that due to the ice storm last week, they only have the summary page, but they should have a full report by next Tuesday and he will send it out to City Council upon receipt. Mr. Yates said that the City is doing all right with the balances of the funds for the year, and for instance, the General Fund was \$28,000 last month, the Utility Fund was \$298,000, primarily due to some large tap fees that came in, such as Blue Wave Car Wash had \$56,000 in impact fees, so last month they had \$4,762,000 total funds and this month they had \$5,078,000. Rebecca Huss said that she and John Champagne agree that how they are doing, relative to the budget, is an important point of government accountability, and you can't tell that from this report. Mr. Yates said that was correct.

Rebecca Huss moved to approve the departmental reports as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING AND MODIFYING ORDINANCE NO. 2008-02, AS AMENDED BY ORDINANCE NO. 2014-03, AND AMENDING ARTICLE VII, "CORRIDOR ENHANCEMENT," OF CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; BY AMENDING REGULATIONS ESTABLISHING AN OVERLAY CORRIDOR ENHANCEMENT DISTRICT FOR THE PURPOSE OF INFLUENCING CERTAIN EXTERIOR ARCHITECTURAL ASPECTS OF BUILDING CONSTRUCTION; EXPANDING THE 300-FOOT CORRIDOR ENHANCEMENT TO 750 FEET FROM THE CENTER OF THE RIGHT OF WAY OF STATE HIGHWAY 105 IN THE CITY; DESIGNATING TEXAS STATE FARM ROAD 1097 EAST FROM THE CENTER OF THE RIGHT OF WAY IN THE CITY AS WITHIN THE CORRIDOR ENHANCEMENT DISTRICT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND EFFECTIVE DATE AFTER PUBLICATION AS PROVIDED BY LAW.

Rebecca Huss said that notwithstanding Mr. Ogorchock's concerns, which she felt could be dealt with separately, she felt that it was important to get this ordinance adopted now, so she made a motion to adopt the Ordinance as previously read. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

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

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 5, 2018, FOR THE PURPOSE OF ELECTING A MAYOR AND TWO (2) CITY COUNCIL MEMBERS, PLACES 2 AND 4; APPROVING ELECTION SERVICE AGREEMENTS WITH MONTGOMERY COUNTY, TEXAS; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

John Champagne moved to approve the Ordinance as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

14. Consideration and possible action to schedule a Public Hearing to be held on February 27, 2018, 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.

John Champagne moved to approve the scheduling of the Public Hearing for February 27, 2018 at 6 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

15. Consideration and possible action regarding the final Mobility Study, as prepared by Jones and Carter on behalf of the City of Montgomery and Montgomery County Precincts 1 and 2.

Mr. Roznovsky introduced Colby Wright, who is the Division Manager of the Traffic Department of Jones and Carter, and he reviewed the Mobility Study in July 2017 at a Joint Meeting with the Planning and Zoning Commission. Mr. Roznovsky said that since July they have been meeting and discussing with Montgomery County Precincts 1 and 2, and getting their comments along with some additional traffic studies pertaining to some of the comments that they received. Mr. Roznovsky said that Mr. Wright will review the changes that were made and answer any questions that City Council might have. Mayor Jones asked whether Montgomery County Precincts 1 and 2 had approved the Mobility Plan. Mr. Roznovsky said that they have blessed it in the fact that they have addressed any comments that they had, which were very minimal, but after tonight they will receive their final copy after the City adopts and approves the Mobility Plan, the County Precincts 1 and 2 will be sent their final copy.

Rebecca Huss said that before the presentation starts she would like to point out in the notes that the Mobility Study was paid for by Montgomery County Precincts 1 and 2, and stated that the City also paid for the Study as well. Mr. Yates said that was correct, it was a three way payment. Rebecca Huss said that the City should get credit for paying a portion of the Mobility Plan.

Mr. Wright reviewed a brief overview of the Mobility Plan, where they looked at the existing conditions and collected traffic data, traffic projections based on a ten year time frame to evaluate the intersections and roadway capacity analysis. Mr. Wright said that they looked at the scheduled improvements by other entities in the area, and recommended improvements short and long term and developed thoroughfare standards and a map. Mr. Wright stated that the draft plan was presented back in July and they received comments to make changes and he is presenting the final report today.

Mr. Wright said that some of the changes made were a new traffic count on SH 105 and FM 149, to look at the afternoon school traffic, and after evaluation of that count, it looks like the traffic volume generally increased beginning at 1 p.m., with the peak hour remaining from 5 p.m. to 6 p.m. Rebecca Huss said that the problem really is that it is a peak 15 minutes rather than a peak hour. Mr. Wright said that was correct. Mr. Wright said that the additional count that they took was when Lone Star Parkway was closed, so there were additional volumes, so they left the peak hour from 5 p.m. to 6 p.m.

Mr. Wright said that they updated the schematics, development map, major thoroughfare plan, and reminded City Council that the major thoroughfare plan is really used as a tool for the City in planning to help identify future corridors for roadways. Mr. Wright said that they updated the recommended improvements, including short and long term recommendations.

Mr. Wright said that the short range improvements included a traffic signal timing study on SH 105, evaluation and improvements of the traffic signals along SH 105 to improve coordination between the signals, they recommended a traffic signal for SH 105 and Buffalo Springs Drive along with some restriping. Mr. Wright said that at SH 105 and FM

2854 at Lone Star Parkway they recommended east and west bound right turn lanes. Mr. Wright said that was basically all the short term improvements.

Mr. Wright advised that the long term improvements included coordination with TxDOT on the SH 105 widening project to ensure that project occurs and they include a traffic signal on SH 105 and Lone Star Parkway as part of that project, SH 105 and FM 149 they recommended northbound and southbound left turn lanes on FM 149, SH 105 at FM 2854 and Lone Star Parkway the construction of northbound and southbound double left and right turn lanes, and finally construction of a traffic signal at Lone Star Parkway and Buffalo Springs.

Mr. Wright advised that was a brief overview report of the changes that had been made to the Mobility Plan, and said that he would be happy to answer any questions.

Rebecca Huss said she was displeased with the elimination of the right hand turn lane at SH 105 and FM 149 because obviously it would get rid of more lanes when they are talking about improving mobility and decreasing wait times at the busiest intersection in town. Rebecca Huss briefly discussed that ideally, the best conditions for intersections is a right and left turn lane, and if they have to choose, they start with the left turn lanes, but if something happens and they have the ability to do both, they need to have all three, straight, right and left and should be in the Plan.

Mr. Wright said that they developed the future analysis for 10 years from now and if they do nothing, what the level of service would be like, so their first goal was to try and mitigate back to an acceptable level of service. Mr. Wright said that after they came back from the last meeting, they looked at the schematics as to what would happen to the intersection; they wanted to see what they could do and they looked to see if getting rid of the right turn lanes and just having the left turn lanes would actually give them a basic level of service. Mr. Wright said that based on that it did, so the most important thing there is the left turn lanes, which is the priority improvement that gives the biggest bang for your buck. Mr. Wright said that he agreed 100 percent that he would like to have double left and right turn lanes at every intersection, because it provides better capacity. Mr. Wright said that the



intent was not to tell them that they do not want right turn lanes, it was that the biggest bang for your buck is to do the left turn lanes. Rebecca Huss asked that they write it into the report with that wording, so that 10 years from now they don't forget this conversation, and said that she did not want to lose or have the idea that they did not say to put in a right hand turn lane, should future conditions allow them more space. Rebecca Huss said that she agreed that the caveat should remind them that it is the best bang for the buck is the left hand turn lane, and not to do right hand turn only, use the left if you have to choose.

Mr. Wright said that they did not recommend right hand turn lanes on SH 105 mainly because the level of service improvement from those was minimal compared to the cost, so the preference would be to have right hand turn lanes as well on SH 105, and he thought that they could include a general statement that right turn lanes should be evaluated or recommended where feasible at all intersections. Mr. Wright said that they can amend the Study to include consideration for right hand turn lanes where feasible. City Council concurred.

Dave McCorquodale asked about the level of service and asked if they were working on the I-10 and 610, would they use the same level of service unit that you would use at an intersection of a Farm to Market Road and State Highway. Mr. Wright said that there are different levels of service for freeway operations. Mr. Wright said that the level of service acronym is different for a stop sign approach versus a traffic signal. Mr. Wright said that there was a difference between intersection levels of service and roadway level of service, they are different categories. Dave McCorquodale said that he wanted to see if the level of service was scaled to what they were looking at in the City, and it sounds like it is.

Rebecca Huss said that the intersections should have a right and left turn lane, because it would help clear traffic. Mr. Wright said that having a right or left turn lane would help any intersection. Dave McCorquodale said that by FM 2854 and SH 105 where they were talking about the additional turn lanes, when you look at a site like the shopping center, even there you can tell that the west bound traffic turning right into the shopping center, right next to the bridge, where the idea of getting over is difficult, does TxDOT ever look back and what would trigger them to look at an area that has congestion. Mr. Wright said

that TxDOT has done a good job, long term, with access management guidelines, and he would say, specific to driveways along major thoroughfares with high traffic volumes, every driveway along that thoroughfare is going to have a level of service, so that is why you will see TxDOT going back and adding medians to improve the safety, and eventually that will happen in the City as well. Mr. Wright said that TxDOT has a safety improvement program that identifies funding for high accident locations, but he did not know how they arrive at which locations are chosen. Dave McCorquodale asked if they felt, long term, points like Lone Star Parkway, that is slightly off in alignment, and asked if that was something that would hang on through the design and construction process or would they anticipate a jog like that actually lining up in the design phase. Mr. Wright said that he thought the intention of the Major Thoroughfare Plan is not to say a roadway goes here, it is to say this large area they anticipated needing a major roadway, so as different size tracts develop you can work with the developers to see where the roads fit within their development, as compared to where they would like the road placed. Mr. Wright said that their information was to provide a planning tool. Mayor Jones said that in the near future they will probably need to have discussions with property owners in the south, either the City or Precinct 2 or both, because the south half of the loop would be helpful.

Rebecca Huss moved to accept the final Mobility Study with the caveat that they adjust a few of the right hand turn lanes recommendations, and highlighting the value of the left hand turn lanes, as otherwise presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

16. Consideration and possible action regarding approval of The Shoppes at Montgomery Section 1 Final Plat.

Mr. Roznovsky presented the information to City Council and advised that they were recommending approval of the final plat, which was approved by the Planning and Zoning Commission last night at their regular meeting.

John Champagne moved to approve The Shoppes at Montgomery, Section 1 Final Plat, as presented. Dave McCorquodale seconded the motion, the motion carried unanimously.  
(3-0)

Mr. Yates said that this will clear the building permit for the new CVS and they will begin construction in a couple weeks. Mayor Jones said that he has seen surveyors from Jones and Carter out on the rest of that property. Mr. Roznovsky said that during the last couple of days they were working on the lift station replacement project, and there are some geotechnical bores being done, and there is also the surveyor starting Friday to stake out the boundaries for the wastewater treatment plant and they will be getting quotes on a fence and do some final elevations for the gravity sewer lines coming from SH 105 to the south. Mr. Roznovsky said that most of the survey was provided by the developer.

17. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky advised that the project is underway and demolition began a couple of weeks ago, and they were held up by the ice storm. Mr. Roznovsky said that as of today, all the slope paving is gone and most of the bulkhead has been removed and the road is starting to be removed. Mr. Roznovsky said that this week and next week the contractors will begin rebuilding the bulkhead and start to bring in the new materials for construction. Mr. Roznovsky said that in the next few weeks the storm sewer pipes will start showing up on site. Mr. Roznovsky said that right now the contract end date is July 2, 2018, but per the original schedule, the initial substantial completion will be mid-June 2018, and the contractor is pushing to complete the project as quick as he can. Mayor Jones said that at one time Mr. Roznovsky had stated that the roadway might be open prior to completion of the bridge. Mr. Roznovsky said that the contractor is pushing to get the bridge open as quick as he can, and will complete the project and open the road at the same time, with clean up to begin around June 19, 2018. Mayor Jones said that they will plan on a ribbon cutting ceremony on June 19<sup>th</sup>. Mr. Roznovsky said that he would say by the end of June 2018.

**EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic

development negotiations) of Chapter 551 of the Government Code of the State of Texas. *(There are no items at this time.)*

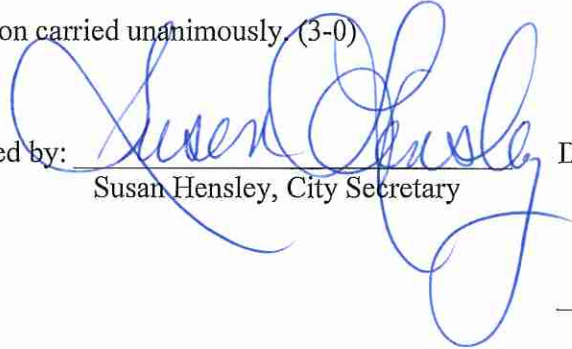
**COUNCIL INQUIRY:**

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

**ADJOURNMENT**

Dave McCorquodale moved to adjourn the meeting at 8:25 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor Kirk Jones

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 13, 2018</b>	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Interlocal Agreement for the Allocation of Sales Tax Revenue</b>
<b>Date Prepared: February 7, 2018</b>	

**Subject**

This is a proposal/offer from ESD #2 to equally share two percent (one per cent for each entity) of the sales tax in the future annexed areas to the city.

**Description**

This has been discussed in the past. The ESD Board has approved the Agreement. They did not have to make the offer to share. Their stated reason for the offer is for the overall strength of the City and the ESD.

Without the Agreement, the City would not be able to collect any future sales tax in any future annexations and the development of the City would, in my opinion, become very sporadic and haphazard as the only reason for City annexation would be water or sewer service.

This Agreement makes for a stronger and much more fiscally sound City.

Not to approve this Agreement would, in my opinion, be a horrendous, irrecoverable mistake to the fundamental future/purpose of the City.

**Recommendation**

Approve the Agreement as presented

**Approved By**

City Administrator	Jack Yates	Date: February 7, 2018
--------------------	------------	------------------------

**INTERLOCAL AGREEMENT FOR  
THE ALLOCATION OF SALES TAX REVENUE**

STATE OF TEXAS                    §  
COUNTY OF MONTGOMERY    §

THIS AGREEMENT is made and entered into effective as of the 1st day of February, 2018 ("Effective Date"), by and between **THE CITY OF MONTGOMERY, TEXAS ("City")**, a body politic and corporate and municipal corporation of the State of Texas, and **MONTGOMERY COUNTY EMERGENCY SERVICES DISTRICT NO. 2 ("MCESD 2")**, a political subdivision of the State of Texas.

**PRELIMINARY MATTERS**

1. The City has been created, established, organized and exists as a Type A general law municipal corporation under the laws of the State of Texas;
2. MCESD 2 has been created, established, organized and exists under the authority of Article III, Section 48-e of the Texas Constitution and Chapter 775, Texas Health & Safety Code;
3. The City has, among its powers, the power of annexation and the power of imposing a local sales and use tax within its jurisdiction, subject to all applicable provisions of the Texas Tax Code and other applicable laws;
4. MCESD 2 has, among its powers, the power of imposing a local sales and use tax within its jurisdiction, subject to all applicable provisions of the Texas Tax Code, Chapter 775, Texas Health and Safety Code and other applicable laws;
5. The City has the power to undertake improvement projects separately or jointly with other persons or entities, including development agreements under Chapter 380 of the Texas Local Government Code, to pay all or part of the costs of improvement projects, including improvement projects that improve, enhance, or support, among other matters, road construction, public utilities construction, building development, and the availability of public safety and security, fire protection, emergency medical services, or law enforcement in the City;

6. The City and MCESD 2 have overlapping boundaries and jurisdictions, and the City is located entirely within the boundary of MCESD 2;
7. The City and its Montgomery Economic Development Corporation currently collectively impose a 2% local sale and use tax;
8. MCESD 2 currently imposes a 2% local sales and use tax in the area of its jurisdiction that does not include the City as the corporate boundary of the City exists at this time;  
;
9. Pursuant to Chapter 321 of the Texas Tax Code (Sec. 321.102), when a municipality annexes for full purposes territory contained within an emergency services district that had theretofore imposed a local sales and use tax and where the local sales and use tax in the annexed area is thereby at the 2% maximum rate for local sales and use tax, the local sales and use tax imposed by the emergency services district remains allocated to the emergency services district and is not allocated by the State Comptroller to the municipality.

### **FINDINGS**

10. The Parties find that Texas Health and Safety Code Sec. 775.0754 allows MCESD 2 to agree to allocate sales and use tax revenue collected in areas annexed by the City subsequent to the implementation of the MCESD 2 sales and use tax;
11. The Parties find that the City requires additional sales tax revenue to provide services and foster development to such areas as the City may annex subsequent to the Effective Date, and to provide funding and tax incentives to promote future development projects in both the City and MCESD 2;
12. The Parties find that the future development within the City's current and future full purposes annexed areas contained within MCESD 2 will be of benefit to MCESD 2, in terms of (a) providing additional revenue and (b) enhancing the capability of delivering emergency services by MCESD 2 to the annexed area by virtue of the municipal services to be provided by the City, including but not limited to additional revenue, additional sales tax revenue, road and access development, police protection and the like;

13. The Parties find that due to the provisions of the Texas Tax Code (Sec. 321.102), the City does not have authority to impose its sales tax or to receive any sales tax revenue from any areas contained within MCESD 2 which were annexed for full purposes by the City after May 7, 2016;

14. The Parties find that it is in the best interests and for the common benefit of the City and MCESD 2 that the City and MCESD 2 enter into this Agreement to allocate, as provided herein, the sales tax revenue generated under the MCESD 2 sales and use tax in the areas contained within MCESD 2 that may be annexed for full purposes by the City after the Effective Date;

15. The Parties find that the Interlocal Cooperation Act, codified as V.T.C.A., Government Code, Chapter 791 (the "Interlocal Act"), provides authorization for any local government to contract with one or more other local governments to perform governmental functions and services under the terms of the Interlocal Act and funding thereunder; and

16. The City and MCESD 2 jointly find that each are local governments as provided under the Interlocal Act and the agreements and provisions herein relate to the respective government functions of each,

**NOW THEREFORE, FOR AND IN CONSIDERATION** of the mutual covenants and conditions hereinafter set forth, the City and MCESD 2 agree as follows:

I.

17. MCESD 2 agrees to allocate to the City certain sales and use tax revenue under the terms of Texas Health and Safety Code Sec. 775.0754 as follows:

(a) Fifty per cent (50%) of the local sales and use tax revenue collected by the State Comptroller and derived from sales tax payers which make initial reports of taxable sales to the State Comptroller on or after the Effective Date, and which are located within the territorial jurisdiction of MCESD 2 and being not contained within the corporate boundary of the City prior to the Effective Date, and which subsequent to the Effective Date of this Agreement is annexed by the City. MC ESD 2 and the City will only share sales tax revenue from tax payers in areas which are located in areas which, prior to the Effective Date, would be subject to only the MC ESD 2 sales and use tax



and who have not made any reports of sales and use tax to the Comptroller prior to the Effective Date.

(b) The payment under 17(a), above, of such allocated local sales and use tax revenue collected by the State Comptroller shall be paid by the State Comptroller under policies and procedures that the Comptroller considers reasonable to MCESD 2 and the City as provided by Section 775.0754(c), with the City and MCESD 2 each receiving 50% of the sales and use taxes collected from the sales tax payers in the areas annexed for full purposes by the City after the Effective Date.

18. The term of this Agreement shall be for thirty (30) years from the Effective Date hereof, and, except as specifically provided herein, neither of the Parties shall have any further obligation or liability to the other Party herein. The City and MCESD 2 may, by addendum hereto, agree to extend the term of this Agreement.

19. This Agreement is intended for the benefit of the named Parties only, and is in no way intended to benefit any other person, either directly or indirectly, including members of the public. Nothing in the Agreement shall or shall be construed to create a partnership or other type of joint enterprise, the sole intent being to create a contractual relationship between the Parties.

20. Nothing in this Agreement is intended to expand any liability that any Party to this Agreement may have to any other person other than a named Party to this Agreement.

21. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of Texas.

22. Any suit brought to enforce, interpret, or receive damages under any provision of this Agreement shall be brought in Montgomery County, Texas, where venue for all matters hereunder is stipulated.

23. Neither this Agreement nor any term or provision of it, may be changed, waived, discharged, amended, or modified orally, or in any other manner than by an instrument in writing signed by all the Parties.

24. This Agreement is not assignable by any Party without the written consent of the other Party.

25. Notwithstanding the provisions of the Texas Government Code or the Texas Local Government Code, and unless prohibited by Texas law, each Party shall defend, indemnify, and hold harmless the other Party and its officers, agents, employees and representatives from any and all losses, liability, damages, claims, suits, actions and

administrative proceedings, and demands and all expenditures and cost relating to acts or omissions of the indemnitor, its officers, agents or employees arising out of or incidental to the performance of any of the provisions of this Agreement. No Party assumes liability for the acts or omissions of persons other than each Party's respective officers, agents or employees. This indemnification clause shall survive this Agreement.

26. By entering into this Agreement, neither Party waives any of the immunities provided by the Texas Government Code or the Texas Local Government Code or other applicable provisions of law. This Agreement is not intended to confer any legal rights or benefits on any person or entity other than the Parties of this Agreement.

27. All notices hereunder shall be sent certified mail, return receipt requested to the addresses set forth below the signatures of the Parties to the Agreement. Notices are deemed given and completed upon deposit in the United States Mail. Either Party may change its address by providing ten (10) days written notice of such change to the other Party in the manner provided for above.

APPROVED and EXECUTED in duplicate originals for and on behalf of the Parties on the dates indicated below the signatures below.

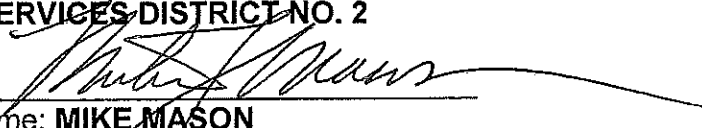
**THE CITY OF MONTGOMERY, TEXAS**

By: \_\_\_\_\_  
Name: KIRK JONES  
Title: **Mayor**  
Address: 101 Old Plantersville Rd  
Montgomery, Texas 77316

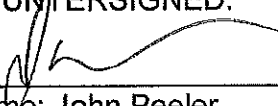
**COUNTERSIGNED:**

By: \_\_\_\_\_  
Name: Larry L. Foerster  
Title: City Attorney

**MONTGOMERY COUNTY EMERGENCY SERVICES DISTRICT NO. 2**

By:   
Name: **MIKE MASON**  
Title: **District President**  
Address: 20590 Eva St.,  
Montgomery, Texas 77356

**COUNTERSIGNED:**

By:   
Name: John Peeler  
Title: District Counsel

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 13, 2018</b>	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Ordinance, Annexation Service Plan</b>
<b>Date Prepared: February 7, 2018</b>	

**Subject**

This is to annex the 3.22 acres of land lying on the extreme east extraterritorial jurisdiction of the city on the south side of SH105. The ETJ of the property proposed to be annexed is approximately one half in the city of Montgomery and one half in the city of Conroe. The property owners name is Peter Hill.

**Description**

This has had to public hearings with no public comment. The staff is not received any calls at City Hall regarding this annexation.

The intention is to have that Mr. Hill run a water and sewer line underneath SH 105, with the upsizing of the water line from an 8 inch to a 12 inch (probably with the upsizing to be funded by MEDC). The 12 inch water line will serve as a looping of a planned line that will be placed from FM 2854 to Mr. Hill's connection when the HEB tract is developed.

**Recommendation**

Approve the Annexation ordinance as presented.

**Approved By**

City Administrator	Jack Yates	Date: February 7, 2018
--------------------	------------	------------------------

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ approving the following Ordinance:

ORDINANCE NO. 2018- \_\_\_\_\_

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY OF 3.22 ACRES OF LAND, MORE OR LESS, IN THE JOHN H. CORNER SURVEY, ABSTRACT 8, TO THE CITY OF MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE**

**WHEREAS**, Section 43.028 of the Texas Local Government Code authorizes the annexation by the City of Montgomery of a sparsely occupied area which has been petitioned by the owners of the annexation, subject to the laws of this State; and

**WHEREAS**, the Montgomery City Council has granted a petition for annexation of a tract of land of approximately 3.22 acres on the south side of State Highway 105, contiguous to the Montgomery city limits, by Resolution No. 2017- \_\_, dated \_\_\_\_\_, 2017; and

**WHEREAS**, the City Council has conducted two public hearings on December 12, 2017 and January 9, 2018 to receive the comments of its citizens on the proposed annexation, and there have been no objections to the proposed annexation; and

**WHEREAS**, the annexation procedures prescribed by the Texas Local Government Code and the laws of this State have been duly followed with respect to the following described territory, to wit:

Being a 3.22-acre tract of land in the JOHN. H. CORNER SURVEY, Abstract 8, of Montgomery County, Texas, further described in the legal description attached hereto in Exhibit "A."

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

1. **PROPERTY ANNEXED:** That the heretofore described property in Exhibit "A" is hereby annexed to the City of Montgomery, Montgomery County, Texas, and that the boundary limits of the City of Montgomery, be and the same be hereby extended to include the above described territory within the city limits of

the City of Montgomery and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Montgomery and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

2. **ANNEXATION SERVICE PLAN:** An Annexation Service Plan for the area is hereby adopted and attached as Exhibit "B".
3. **SEVERABILITY CLAUSE:** The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.
4. **TEXAS OPEN MEETINGS ACT:** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, of the Texas Government Code.
5. **FILING ORDINANCE:** The City Secretary is hereby directed to file a certified copy of this Ordinance with the County Clerk of Montgomery County, Texas, the Montgomery County Central Appraisal District, the Texas Secretary of State, and the Office of Texas State Comptroller.
6. **EFFECTIVE DATE:** This Ordinance shall be effective upon its passage.

PASSED AND APPROVED by an affirmative vote of the members of the City Council, on this the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

\_\_\_\_\_  
Susan Hensley, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry L. Foerster, City Attorney

Exhibit "A"



**"A LAND SURVEYING COMPANY"**

November 6, 2017  
A8AC3.22

Being a 3.22 acre tract of land in the John Corner Survey, Abstract 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas, being more particularly described as follows:

**COMMENCING** at a PK nail found for the northwesterly corner of a called 48.540 acre tract as recorded under Clerk's File No. 2007-000741 Deed Records Montgomery County, Texas, being along the of the southerly right of way line of State Highway 105 (R.C.W. Varies), and being the northeasterly corner of said 5.71 acre tract;

THENCE S 03 deg. 48' 31" E along the westerly line of said 48.540 acre tract, also along the easterly line of said 5.71 acre tract, a distance of 308.15 feet to a found PK nail, being the most easterly south corner of said 5.71 acre tract;

THENCE N 87 deg. 26' 35" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre tract, a distance of 95.82' to a found PK nail;

THENCE S 01 deg. 47' 27" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre, a distance of 17.85' to a found PK nail;

THENCE N 87 deg. 16' 39" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre a distance of 231.56' a point for corner along the northerly line of said 48.540 acre tract, also being along the southerly line of said 5.71 acre tract, and being the easterly corner of herein described tract, and being the **POINT OF BEGINNING**;

THENCE N 87 deg. 16' 39" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre, a distance of 5.68' to a found PK nail;

THENCE S 86 deg. 42' 40" W, along the northerly line of said 48.540 acre tract a distance of 145.64' to a 5/8" iron rod found, being the most westerly north corner of said 48.540 acre tract, being an interior corner of herein described tract;

THENCE S 12 deg. 11' 42" W, along the westerly line of said 48.540 acre tract a distance of 102.69' to a 5/8" iron rod found;

THENCE S 78 deg. 19' 16" E, along the southerly line of said 48.540 acre tract a distance of 62.50' to a 5/8" iron rod found;

THENCE N 10 deg. 25' 11" E, along the easterly line of said 48.540 acre tract a distance of 39.11' to a 5/8" iron rod found;

THENCE S 79 deg. 31' 27" E, along the southerly line of said 48.540 acre tract a distance of 100.21' to a 5/8" iron rod set, being an interior corner of said 48.450 acre tract, being an exterior corner of herein described tract;

THENCE S 46 deg. 51' 53" W, along the westerly line of said 48.540 acre tract a distance of 70.05' to a 5/8" iron rod set;

THENCE S 35 deg. 57' 21" W, along the westerly line of said 48.540 acre tract a distance of 101.39' to a 5/8" iron rod set;

THENCE S 24 deg. 44' 23" W, along the westerly line of said 48.540 acre tract a distance of 146.12' to a 5/8" iron rod set;

THENCE S 22 deg. 09' 41" E, along the westerly line of said 48.540 acre tract a distance of 52.72' to a 5/8" iron rod set;

THENCE S 25 deg. 44' 51" W, along the westerly line of said 48.540 acre tract a distance of 32.14' to a point in the centerline of a creek, being a point on the easterly line of said 111.857 acre tract, being the most southerly corner of herein described tract;

THENCE N 50 deg. 25' 39" W, across said 111.857 acre tract a distance of 68.02' to a 5/8" iron rod set;

THENCE N 34 deg. 45' 39" W, across said 111.857 acre tract a distance of 103.76' to a 5/8" iron rod set;

THENCE N 17 deg. 33' 45" W, across said 111.857 acre tract a distance of 111.07' to a point at a creek intersection, being the southeasterly corner of a called 1.289 acre tract as recorded under Clerk's File No. 2014-103529 Deed Records Montgomery County, Texas;

THENCE along the following courses and distances along said creek:

THENCE N 02 deg. 11' 01" W, along the easterly line of said 1.289 acre tract a distance of 20.00' to a point for corner;

THENCE N 23 deg. 02' 40" E, along the easterly line of said 1.289 acre tract a distance of 59.23' to a point for corner;

THENCE N 15 deg. 12' 33" E, along the easterly line of said 1.289 acre tract a distance of 51.14' to a point for corner;

THENCE N 29 deg. 51' 25" E, along the easterly line of said 1.289 acre tract a distance of 17.50' to a point for corner, being the northeasterly corner of said 1.289 acre tract, being the southeasterly corner of a called 12.74 acre tract as recorded under Clerk's File No. 2014-103574 Deed Records Montgomery County, Texas;

THENCE N 16 deg. 10' 51" E, along the easterly line of said 12.74 acre tract a distance of 35.68' to a point for corner;

THENCE N 26 deg. 12' 24" E, along the easterly line of said 12.74 acre tract a distance of 22.44' to a point for corner;

THENCE N 26 deg. 12' 24" E, along the easterly line of said 12.74 acre tract a distance of 95.80' to a point for corner;

THENCE N 57 deg. 22' 01" W, along the easterly line of said 12.74 acre tract a distance of 22.66' to a point for corner;

THENCE N 23 deg. 09' 59" E, along the easterly line of said 12.74 acre tract a distance of 83.90' to a point for corner;

THENCE N 11 deg. 45' 39" W, along the easterly line of said 12.74 acre tract a distance of 78.90' to a point for corner;

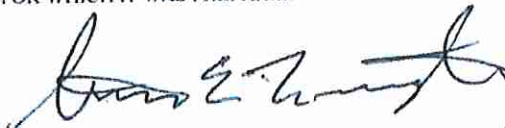

THENCE N 05 deg. 42' 22" E, along the easterly line of said 12.74 acre tract a distance of 71.60' to a point for corner;

THENCE N 43 deg. 37' 22" E, along the easterly line of said 12.74 acre tract a distance of 67.78' to a point for corner;

THENCE leaving said creek N 87 deg. 19' 04" E, a distance of 158.67' to a point for corner along the northerly line of said 5.71 acre tract, being the most northerly west corner of herein described tract;

THENCE S 00 deg. 00' 01" W, across said 5.71 acre tract, a distance of 366.85' to the **POINT OF BEGINNING**, and containing 3.22 acres of land, more or less.

THIS LEGAL & EXHIBIT WAS PREPARED UNDER TITLE 22 OF THE TEXAS ADMINISTRATIVE CODE, CHAPTER 663, RULE 663.21, AND DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED



**ANNEXATION SERVICE PLAN**  
**CITY OF MONTGOMERY, TEXAS**

**TERRITORY**

This Service Plan is applicable to the territory which is described in Exhibits A attached to this document, which is being annexed by the City of Montgomery, Texas.

**INTENT**

It is the intent of the City of Montgomery that this Service Plan shall provide for the delivery of full available municipal services to the annexed areas in accordance with State law. The failure of this plan to describe any particular service shall not be deemed to be an attempt to omit the provision of such services from the annexed areas. The delivery of municipal services may be accomplished through any means permitted by law.

**EFFECTIVE TERM**

This Service Plan shall be in effect for a ten-year period commencing on the effective date of this annexation.

**AMENDMENT OR RENEWAL**

This Service Plan may be amended from time to time as provided by Texas Local Government Code, Section 43.056 (e), (j), and (k). Renewal of the Service Plan shall be at the sole option of the City Council.

**FIRE**

*Existing Services:* Fire suppression and protection service is currently provided in the annexed areas by the Montgomery County Emergency Services District No. 2.

*Services to be provided:* The City of Montgomery, Texas does not provide fire suppression services. Fire suppression will continue to be available to the area upon annexation from the Montgomery County Emergency Services District No. 2.

**POLICE**

*Existing Services:* Currently, the area to be annexed is under the jurisdiction of the Montgomery County Sheriff's Department.

*Services to be provided:* Upon annexation, the City of Montgomery Police Department will extend regular and routine patrols to the area. It is anticipated that the implementation of police

patrol activities can be effectively accommodated within the current budget and staff appropriation.

### **BUILDING INSPECTION**

*Existing Services:* None

*Services to be provided:* The City will provide code enforcement services upon annexation. This includes issuing building, electrical and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulates building construction within the City of Montgomery.

### **PLANNING AND ZONING**

*Existing Services:* None

*Services to be provided:* The Planning and Zoning Commission's responsibility for regulating development and land use through the administration of the City of Montgomery Zoning Ordinance will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the requirements of the City of Montgomery's Subdivision Ordinance. These services can be provided within the City's current budget.

### **LIBRARY**

*Existing Services:* Currently the area to be annexed is served by the Montgomery County Memorial Library System and its Charles B. Stewart West Branch Library.

*Services to be provided:* The City of Montgomery does not provide Library services, but the Montgomery County Memorial Library System will continue to be available to the annexed area.

### **STREET MAINTENANCE**

*Existing Services:* Montgomery County and State of Texas road maintenance

*Services to be provided:* Maintenance of public streets and ditches in the annexed area will be provided by the City to the extent public right-of-ways are not maintained by the State of Texas and Montgomery County. Street maintenance is subject to all applicable City ordinances, including the City's Subdivision Ordinance. This service can be provided within the current budget appropriation.

### **STORM WATER MANAGEMENT**

*Existing Services:* None

*Services to be provided:* In accordance with applicable City ordinances, developers will provide storm water drainage at their own expense and will be inspected by the City engineer at time of

completion. The City, upon acceptance, will then maintain the drainage upon approval, subject to compliance with all City ordinances.

### **STREET LIGHTING**

*Existing Services:* None

*Services to be provided:* The City of Montgomery will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy.

### **WATER SERVICE**

*Existing Services:* None

*Services to be provided:* Water service to the area will be provided in accordance with the applicable City of Montgomery codes and departmental policies, and any applicable Development Agreement. Privately owned and operated water wells are not authorized in the City. By City ordinance, all buildings in the City must be connected to City water and sewer. When property develops in the area, water service shall be provided in accordance with extension ordinances at the in-city rates. Extension of service shall comply with all City codes and ordinances.

### **SANITARY SEWER SERVICE**

*Existing Services:* None

*Services to be provided:* Sanitary sewer service to the area of proposed annexation will be provided in accordance with applicable codes and departmental policies, and any applicable Development Agreement. When property develops in the areas, sanitary sewer service shall be provided in accordance with present extension ordinances at the in-city rates. Extension of service shall comply with City codes and ordinances.

### **SOLID WASTE SERVICE**

*Existing Services:* None

*Services to be provided:* Waste Management, Inc., a solid waste collection company, currently provides residential solid waste collection services under an exclusive contract with the City. The City invoices the City customer for the monthly garbage collection charge with its water and sewer charges. Residential service shall be available to the area to be annexed in compliance with existing City policies. Businesses may use the Waste Management residential trash carts if they wish. Commercial dumpster service will be provided under a separate contract between each business and the contractor selected by each business.

### **NATURAL GAS UTILITY SERVICE**

*Existing Services:* None

*Services to be provided:* The City of Montgomery does not provide natural gas utility service. LDC Natural Gas Company, a public natural gas utility company, provides natural gas service, which is presently not available to all parts of the City.

### **EMERGENCY MEDICAL SERVICE**

*Existing:* Currently the area to be annexed is served by the Montgomery County Hospital District's Emergency Medical Service's emergency and non-emergency ambulance transport service.

*Services to be provided:* The City of Montgomery, Texas does not provide first responder or emergency services. Emergency medical services will continue to be available to the area upon annexation from the Montgomery County Hospital District's Emergency Medical Service (EMS) ambulances.

### **HEALTH CODE ENFORCEMENT SERVICE**

*Existing:* Currently the area to be annexed is served by Montgomery County Environmental Health Service, a department of Montgomery County.

*Services to be provided:* The City of Montgomery does not provide health code enforcement services. These services will continue to be provided by Montgomery County Environmental Health Service.

### **PARKS, PLAYGROUNDS AND SWIMMING POOLS**

*Existing:* None

*Services to be provided:* The City of Montgomery maintains the Cedar Brake Park, Homecoming Park, Memory Park and Fernland Historical Park. The City does not own or operate a public swimming pool or other playgrounds. Public school playgrounds will remain the responsibility of the Montgomery Independent School District. Private recreational facilities, open spaces and swimming pools are not affected by annexation.

### **MISCELLANEOUS**

All other applicable municipal services will be provided to the area in accordance with the City of Montgomery's ordinances and policies governing extension of municipal services to newly annexed areas.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 13, 2018</b>	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Minutes of 2012 variance discussion of Council, Parking variance in file – and signed by Ms. or Mr. Kerr</b>
<b>Date Prepared: February 7, 2018</b>	

**Subject**

This is to listen to a report from the city attorney regarding a 5 ¼-year-old unsigned variance agreement with Ms. Rendy Kerr, to consider options available and if willing, to make a decision.

**Description**

This concerns a variance agreement given on October 9, 2012 by the Council to Ms. Rendy Kerr that allowed her and her husband at the time permission to build on the north edge of the property at the southeast corner of FM 149 and College Street in return for paving of the street next to your location on College Street. They built the addition to the building but never paved the parking area on the south side of the street as required in the agreement. In the City file is a variance agreement, signed by Mayor John Fox but not signed by Mr. or Mrs. Kerr.

I have shown on this to the City Attorney who, so far, has said that the variance agreement is not valid because of the 5 ¼ years time passage since its passage by the Council.

While still considering the issue, the City Attorney advised me to put the item on the Council agenda so that he could report on the item and give the Council options for any possible actions.

At the January MEDC Ms. Kerr asked the MEDC to pay for the parking cost of approximately \$3,700. The MEDC voted not to approve the funds because they felt like the parking was not necessary at this time and voted to recommend to the City Council not to require Ms. Kerr to pave the area.

Montgomery City Council  
**AGENDA REPORT**

--

**Recommendation**

Listen to the City Attorney's advice on the matter- then decide as you will.

**Approved By**

City Administrator

Jack Yates

Date: February 7, 2018

8. Consideration and possible action on parking agreement between the City of Montgomery and Megan Stultz

Bryan Fowler, City Attorney told the Council this is a existing business in the city which is building a new building and does not have enough land for parking and the Zoning Board of Adjustment granted a variance to permit her (9) parking spaces on her property and construct and maintain additional parking spaces to be located on City owned property, which is the discontinued City water plant site. The agreement sets out the terms of the agreement where the City will lease the site to her for her to construct and install a paved or asphalt parking lot to be used by patrons of the building on her property, as well as for use by members of the public. The lease is for three (3) years and improvements would pass on to the City upon termination of the lease. Discussion was taken on amount to cost to construct the parking lot, years for the lease, and use of other parking spaces for the public. John Champagne made the motion to approve the parking agreement and lease with the 10 year lease and subject to approval of the City Attorney. Kirk Jones seconded the motion. Kirk Jones, Thomas Knight and John Champagne all voted for the motion.

9. Consideration and possible action on parking agreement between the City of Montgomery and Rendy Kerr.

Bryan Fowler, City Attorney explained to the Council that when this business, Rancher's Daughter installed a covered patio and was required to provide additional parking spaces did not have the property to do this. The Zoning Board of Adjustments granted a variance to permit them temporary use of parking spaces in front of the Montgomery Community Building, if they would construct and maintain additional required parking spaces in the College Street right of way, to satisfy the Ordinance. The agreement requires the Kerrs to install the parking area on college Street right of way within a three year term and indicates all improvements will become property of the City upon completion. Kirk Jones made the motion to approve the agreement as presented. Thomas Knight seconded the motion. Kirk Jones, Thomas Knight and John Champagne all voted for the motion.

**PUBLIC HEARING AND POSSIBLE ACTION:**

10. Public hearing and possible action on a rezone request for 300 Prairie Street from residential to a planned development district

Mayor Fox opened the public hearing at 7:50 p.m.. Bill Kotlan, City Administrator read a letter from a property owner that stated he was ok with the use of the property he wanted the City and Property owner to be aware that the driveway was on his property not the property in discussion. Bryan Fowler, City Attorney explained that the property would be zoned a Planned Development District #3 with restrictions. The Planning and Zoning Commission made a preliminary report and held the public hearing on the proposed amendment and presented the final report to the Council. Mayor Fox closed the public hearing at 8:04. Kirk Jones commented that this was a good use for the property. John Champagne made the motion to receive the final report from the Planning and Zoning Commission and approve the ordinance for the rezone to Planned Development District No. 3 subject to the closing and Fannie Mae approval. Thomas Knight seconded the motion. Thomas Knight, John Champagne and Kirk Jones all voted for the motion.

**EXECUTIVE SESSION:**

## AGREEMENT CONCERNING PARKING

This Agreement Concerning Parking Variance (the "Agreement") is entered into as of the 9th day of October, 2012, (the "Effective Date") by and between the City of Montgomery, Texas, a political subdivision of the State of Texas, and Rendy Kerr ("Kerr").

WHEREAS, Kerr is the owner of the real property located at [redacted] Montgomery, Texas, and legally described on the attached Exhibit "A" and

WHEREAS, the City is the owner of an adjacent tract of land located at [redacted] the City of Montgomery, Texas, known as the Montgomery Community Building (the "City Property"); and

WHEREAS, Kerr applied for a building permit to add a covered patio to the building located on the Kerr Property to be utilized in connection with the Kerr's operation of a business on the Kerr Property, known as the Rancher's Daughter (the "Business"); and

WHEREAS, the Kerr Property, after the addition of the patio to the building thereon, is insufficient to permit Kerr to comply with the City's parking requirements as set out in the Code of Ordinances for the City of Montgomery; and

WHEREAS, Kerr applied for, and received, a variance from the City's Zoning Board of Adjustments, to permit Kerr to temporarily use City parking on College Street in front of the Montgomery Community Building on a temporary basis, in consideration for Kerr's contractual agreement to construct and maintain additional parking spaces on the City street right of way of College Street, in accordance with the terms of this Agreement; and

WHEREAS, the City is willing to permit Kerr to utilize City parking spaces on a temporary basis, on the terms and conditions set out in this Agreement, to permit Kerr to comply with the City's Ordinances and the requirements of the City's Zoning Board of Adjustments.

NOW, THEREFORE, in consideration of the mutual covenants, assurances and consideration herein set forth, it is agreed as follows:

### ARTICLE I AGREEMENTS

A. The City, for and in consideration of the covenants and promises herein, does hereby permit Kerr to utilize, on a first-come, first-served basis, the public parking spaces located in front of the Montgomery Community Building, as identified on the highlighted portion of the attached Exhibit "B", as required parking for the Business. This parking area may be utilized by Kerr for three (3) years from the date of this Agreement.

B. Kerr shall construct, or caused to be constructed, a new asphalt or concrete

*Handwritten notes on a shaded background:*  
road Kerr  
to sign  
Couples opt dinner  
Neither would  
Come in & sign



## AGREEMENT CONCERNING PARKING VARIANCE

This Agreement Concerning Parking Variance (the "Agreement") is made and entered into as of the 9th day of October, 2012, (the "Effective Date"), by and between the City of Montgomery, Texas, a political subdivision of the State of Texas (the "City") and Harry and Rendy Kerr ("Kerr").

WHEREAS, Kerr is the owner of the real property located at 14387 Liberty Street, Montgomery, Texas, and legally described on the attached Exhibit "A" (the "Kerr Property"); and

WHEREAS, the City is the owner of an adjacent tract of land abutting College Street in the City of Montgomery, Texas, known as the Montgomery Community Building (the "City Property"); and

WHEREAS, Kerr applied for a building permit to add a covered patio to the building located on the Kerr Property to be utilized in connection with the Kerr's operation of a business on the Kerr Property, known as the Rancher's Daughter (the "Business"); and

WHEREAS, the Kerr Property, after the addition of the patio to the building thereon, is insufficient to permit Kerr to comply with the City's parking requirements as set out in the Code of Ordinances for the City of Montgomery; and

WHEREAS, Kerr applied for, and received, a variance from the City's Zoning Board of Adjustments, to permit Kerr to temporarily use City parking on College Street in front of the Montgomery Community Building on a temporary basis, in consideration for Kerr's contractual agreement to construct and maintain additional parking spaces on the City street right of way of College Street, in accordance with the terms of this Agreement; and

WHEREAS, the City is willing to permit Kerr to utilize City parking spaces on a temporary basis, on the terms and conditions set out in this Agreement, to permit Kerr to comply with the City's Ordinances and the requirements of the City's Zoning Board of Adjustments.

NOW, THEREFORE, in consideration of the mutual covenants, assurances and consideration herein set forth, it is agreed as follows:

### ARTICLE I AGREEMENTS

A. The City, for and in consideration of the covenants and promises herein, does hereby permit Kerr to utilize, on a first-come, first-served basis, the public parking spaces located in front of the Montgomery Community Building, as identified on the highlighted portion of the attached Exhibit "B", as required parking for the Business. This parking area may be utilized by Kerr for three (3) years from the date of this Agreement.

B. Kerr shall construct, or caused to be constructed, a new asphalt or concrete

parking area in the right of way of College Street, in the location identified on the highlighted portion of the attached Exhibit "C" (the "Parking Area"). Said parking shall include as many parking spaces as may be reasonably installed in the Parking Area, and shall be constructed or installed in accordance with City approved plans and specifications. The Parking Area shall be located in the area bound by the Kerr's side property line on the south, the College Street payment to the north, the Kerr's front property line to the east, and the Kerr's rear property line to the west. Said entire area shall be constructed as the Parking Area, which is required under this Agreement.

C. This parking area may be used by Kerr to fulfill the parking requirements for the Kerr Property, as required by City Ordinances, and as required by the variance granted by the Zoning Board of Adjustments. All improvements shall become the property of City, and title to all such improvements shall be vested in City. It is expressly agreed that the Kerr's shall construct the parking lot within three (3) years from the date of this Agreement.

## ARTICLE II CONSTRUCTION, MAINTENANCE, REPAIRS

A. The Parties hereby agree that Kerr shall submit a Development Site Plan (for the parking lot improvements) for the parking area, and the City shall review and approve said Development Site Plan if it meets all requirements of the City. Kerr shall comply with any reasonable requests from the City regarding designs and specifications of improvements to the parking area, and any deviations from the Development Site Plan must be pre-approved in writing by the City Council. All improvements constructed on the parking area shall comply with all applicable federal, state, county or city ordinances, rules and regulations. All costs of development under this Agreement shall be borne solely by Kerr.

## ARTICLE III INDEMNITY

A. KERR SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS AGAINST ANY INJURY, CLAIM OR PROPERTY DAMAGE OR LOSS SUFFERED BY ANY PARTY OR PERSON AND ANY CLAIM, LAWSUIT, LEGAL ACTION, AWARD OR COST, INCLUDING ATTORNEYS' FEES ARISING FROM ANY DEFECT OR CONDITION OF THE PARKING LOT OR THE KERR PROPERTY, EXCEPT A DEFECT ARISING OR RESULTING FROM A WILLFUL OR INTENTIONAL ACT OR OMISSION OF CITY, ITS OFFICERS OR EMPLOYEES.

## ARTICLE IV GENERAL PROVISIONS

A. Notices. All notices or other communications required under this Agreement may be made either by personal delivery in writing or by certified mail, return receipt requested. Notice shall be deemed to have been given when delivered in person or deposited in U.S. mail, postage prepaid, certified mail, return receipt requested, addressed as follows:

To City –  
City of Montgomery  
P.O. Box 708  
Montgomery, Texas 77356

To Kerr –  
Harry and Rendy Kerr  
13923 Hunter's Court  
Montgomery, Texas 77356

B. Law Governing Agreement. This Agreement and all of its terms, covenants and conditions, as well as the rights and duties of the Parties hereunder, shall be governed exclusively by and construed in accordance with the laws of the State of Texas.

C. Licenses, Fees, Permits, and Taxes. Kerr shall secure and maintain, at its own expense, all federal, state and local licenses and permits required to perform its obligations under this Agreement. Kerr shall be responsible for all sales, use, excise, business and income taxes incurred by Kerr in the performance of its obligations under this Agreement.

D. Severability and Validity. The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

E. Headings. The article headings have been inserted for purposes of convenience only, and they form no part of this Agreement and shall not be used for interpretive purposes.

F. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one Agreement.

G. Entirety of Agreement. This Agreement, including the attached Exhibits, and any other writing signed by the Parties that specifically references this Agreement, constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter hereof. This Agreement is not intended to confer upon any person other than the Parties to this Agreement any rights or remedies. Each Party to this Agreement acknowledges that no inducements or promises, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not contained in this Agreement.

H. Force Majeure. For purposes of this Section "force majeure" means an event beyond the control of either Party, which by its nature could not have been foreseen by such Party, or, if it could have been foreseen, was unavoidable, and includes without limitation, acts of God, storms, floods, riots, fires, terrorism, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared), telecommunications failure and failure of energy sources. Neither Party shall be under any liability for failure to fulfill any obligation under this Agreement, so long as and to the extent to which the fulfillment of such obligation is prevented, frustrated, hindered, or delayed as a consequence of circumstances of force majeure, provided that such Party shall have exercised all due diligence to minimize to the greatest extent possible the effect of force majeure on its obligations hereunder. This Section does not relieve Kerr of any duties or obligations contained

in Article VII herein.

I. Compliance with Laws. Each Party shall comply with all federal, state, and local statutes, ordinances, regulations and requirements applicable to the performance of this Agreement. Kerr shall comply with all safety and other regulations and directives promulgated by Montgomery County or any other governmental entity and shall use the leased premises strictly for the purposes outlined herein.

J. Amendment. This Agreement may be amended only by a written agreement executed by both Parties.

K. Waiver. The failure of either Party to exercise any right or remedy due to breach or default by other Party under this Agreement shall not be deemed as waiver of such rights or remedies or as waiver of any subsequent breach or default by the other Party.

L. Right of Entry and Inspection. Kerr shall permit City or City's agents, representatives or employees to enter the leased premises at any time of Kerr's use during the lease term, whether for the purpose of inspection to determine whether Kerr is in compliance with the terms of this Agreement or for any other purpose.

M. Assignment. Kerr may not assign or sell any of its rights or obligations under this Agreement.

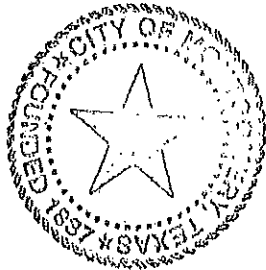
N. Parties Bound and Release of City. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement. In the event City shall sell or transfer its interest in the leased premises or any part thereof, and as a part of such transaction shall assign its interest as City in and to this Agreement, then, from and after the effective date of such sale, assignment or transfer, City shall have no further liability under this Agreement to Kerr except as to the matter of liability which shall have accrued and is unsatisfied as of such effective date, it being understood and intended that the covenants and obligations contained in this Agreement on the part of City shall be binding on City's successors and assigns, only during and in respect to their respective successive period of ownership of the leasehold interest.

*- remainder of this page is intentionally blank -*

SIGNED and ENTERED into the 9th day of October, 2012.

\_\_\_\_\_  
HARRY KERR

\_\_\_\_\_  
RENDY KERR



CITY OF MONTGOMERY, TEXAS

*John Fox*  
\_\_\_\_\_  
JOHN FOX, Mayor

ATTEST:

*Carol Langley*  
\_\_\_\_\_  
City Secretary

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 13, 2018</b>	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Sec.114.112 of Texas Utility Code, e-mail from Mr. Corley</b>
<b>Date Prepared: February 7, 2018</b>	

**Subject**

This is a report regarding LDC gas rates and reimbursement charges billed to residents of the city. While some information is known right now more will be determined before the February 13 meeting and will be reported at the meeting.

**Description**

As I write this at 4 o'clock on February 7 I've spoken with Mark Everts, Dir. Of Gas Services at the Railroad Commission in Austin. Mr. Everts told me that the city has original, and sole, jurisdiction over reimbursement fees inside the city. Outside the city limits the Railroad Commission has original jurisdiction. He said that the Railroad Commission denied LDCs request for reimbursement recovery inside the City. He directed me to the Texas Utility Code Section. 104.112 (attached) which appears to clearly state the original and sole jurisdiction issue.

I ask Mr. Everts if there was a penalty for LDC improperly charging for the reimbursement and he said that there was and that the penalty could be determined and assessed by the City Council. He said he would email me the section regarding the penalty, but as of now he is not done so.

I also asked Mr. Everts about notice to the city of the hearing and notification of the decision. He said he would send me a copy of the city's notification but as of now he has not done so.

It preliminarily appears that LDC has improperly billed city residents for the reimbursement charges for the Lone Star Bend gas line and the administrative costs billed to the reimbursement also for the filing with the Railroad Commission for their application. It also appears as though LDC has been less than correct and forthcoming with accurate statements regarding these reimbursement charges. I have an e-mail from LDC President Larry D. Corley

Montgomery City Council  
**AGENDA REPORT**

stating the reason that the Railroad Commission and LDC decided to implement the reimbursement surcharge was because the city's failure to meet the requirements of the code by not stating a reason why the Council denied the request (attached). Personally I could understand an initial mistake in making the original filing but after Commission denial specifically of the inside city reimbursement charges I do not understand a second error in answering a direct question about the reimbursement after the Railroad Commission had made its ruling.

As to the regular consumption billings the city has jurisdiction, however those rates can be appealed to the Commission. I have a copy of their filing for their last rate increase that includes the cost of operation, salaries paid and all other costs recovered through rates. I, and others are reviewing that submittal now.

The City Attorney and I will be continuing the review – with the possibility being a formal hearing regarding a reimbursement and penalty decision by the City Council for LDC improperly charging for the Lone Star Bend reimbursement to city residents.

**Recommendation**

Listen to the report and the City Attorney's advice on the matter- then decide as you will.

**Approved By**

City Administrator

Jack Yates

Date: February 7, 2018

Sec. 104.112. SURCHARGE TO RECOVER RELOCATION COSTS. (a) This section applies to a gas utility's costs of relocating a facility to accommodate construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain that are not reimbursed by a source other than as provided by this section.

(b) A gas utility may recover its relocation costs to which this section applies through a surcharge on gas volumes sold and transported to customers in the service area where the relocation occurred by applying to each appropriate regulatory authority for a new rate schedule or tariff. The gas utility is not required to file a statement of intent to increase rates to institute the surcharge, and the other provisions of this subchapter, other than appeal rights, do not apply to institution of the surcharge.

(c) An application under Subsection (b) must include sufficient documentation to demonstrate:

- (1) the requirement for each relocation;
- (2) the entity requiring the relocation;
- (3) costs incurred for relocation of comparable facilities;
- (4) surcharge computations; and
- (5) that reasonable efforts have been made to receive reimbursement from the entity requiring the relocation, if applicable.

(d) Not later than the 35th day after the date an application under Subsection (b) is received, the regulatory authority shall administratively grant or deny the application. Denial of the application must be based on a finding that:

- (1) the relocation was not necessary or required;
- (2) the costs of the relocation were excessive or not supported;
- (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.

(e) If the regulating authority does not make a decision before the deadline prescribed by Subsection (d), the application is approved.

Added by Acts 1999, 76th Leg., ch. 219, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 662, Sec. 1, eff. Sept. 1, 2001.

---

Sec. 104.151. UNREASONABLE OR VIOLATIVE EXISTING RATES.

(a) If the regulatory authority, on its own motion or on complaint by an affected person, after reasonable notice and hearing, finds that the existing rates of a gas utility for a service are unreasonable or in violation of law, the regulatory authority shall:

(1) enter an order establishing the just and reasonable rates to be observed thereafter, including maximum or minimum rates; and

(2) serve a copy of the order on the gas utility.

(b) The rates set under Subsection (a) constitute the legal rates of the gas utility until changed as provided by this subtitle.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 104.152. INVESTIGATING COSTS OF OBTAINING SERVICE FROM ANOTHER SOURCE. If a gas utility does not produce the service that it distributes, transmits, or furnishes to the public for compensation but obtains the service from another source, the regulatory authority may investigate the cost of

that production in an investigation of the reasonableness of the gas utility's rates.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

----- Forwarded message -----

From: **Larry Corley** <[lcorley@ldcgas.com](mailto:lcorley@ldcgas.com)>

Date: Fri, Nov 17, 2017 at 11:00 AM

Subject: LDC's Relocation Surcharge Issue

To: "Yates, Jack" <[jjates@ci.montgomery.tx.us](mailto:jjates@ci.montgomery.tx.us)>

Cc: bbrown <[bbrown@ldcgas.com](mailto:bbrown@ldcgas.com)>, Mike Swaim <[mike.t.swaim@gmail.com](mailto:mike.t.swaim@gmail.com)>

Jack,

As a follow up to our meeting yesterday, the following information and attached data should clarify the reason why the RRC and LDC's decided to implement the Surcharge to include all City Customers. In January and June Council meetings, the Council Denied both requests and did not specifically state a reason why. As per the requirements of the Texas Utility Code, Section 104.112 (see attached copy), a Denial **MUST** be based on one of the four stated reasons in the Code. Montgomery City Council simply did not meet the requirements of the Code by denying the requests for no reason stated.

Please do not hesitate to call if you need further discussion.

Larry D. Corley  
President

(936) 539-3500

(713) 826-7881 Cell

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: February 13, 2018</b>	<b>Budgeted Amount:</b>
<b>Department:</b>	
	<b>Exhibits:</b> Letter of request, Engineer's memo Plat showing variance in Yellow, Pictures from QBS, Pictures from J. Yates of alleyways behind Caroline Street
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	
<b>Date Prepared: February 7, 2018</b>	

**Subject**

This is a request from Damon Scott of QBS Homes for a 5 foot front building line variance on lights one through four and a 5 foot building line variance on the north side of lot for all of these variances are in Block 1 of West of the Park Subdivision.

**Description**

The reason given in the letter of request is to continue to some of the same style of homes as started on Caroline Street. The lots on Sheppard are not as deep as the lots on Caroline therefore there is a greater potential that they will have an issue with the use of their garages which are all approached from an alleyway behind the houses. The thought is that since these houses not in a mid-block with other houses with different frontages that the distance back from the road will not be apparent/noticeable. By building 5 feet closer to the front of the lot that will leave 5 feet more distance between the garage and the alleyway--- thus making the driveway approaches to the garage is have more room for a vehicle to park and not possibly stick out into the narrow alleyway.

The reason I took some pictures of the Caroline houses alley is to show the narrowness of those alleys.

The reason given for the variance on the north side of Lot 4 is so that a chimney Brickwork can jut into the side yard building lot line.

Montgomery City Council  
**AGENDA REPORT**

Opinion: given that the properties are distinct and one Street, the standard front yard of 20 feet, to me, is acceptable – especially compared to the narrowness of the driveway alleys in the rear access to the garages.

The Planning Commission recommended approval of both variances.

**Recommendation**

Motion to approve the variances as requested.

**Approved By**

City Administrator

Jack Yates

Date: February 7, 2018



To: The City of Montgomery Board and Adjustments

QBS Custom Homes Inc. is preparing to complete our final building phase in Westside At The Park. QBS Custom Homes Inc. would like to request a five foot variance of the front build line on lots 1-4 as well as a five foot variance on the north build line of Lot 4. I have attached a survey showing the build lines for your review. The reason for this request is to continue the same style homes that we have started on Caroline St. in the historical district. The lots on Sheppard are not as deep as the lots on Caroline therefore there is great potential we will have an issue with the alley ways for our future homeowners. A five foot variance will give the same driveway length as the homes on Caroline St. The side build lines are all ten foot except for lot 4. We are requesting a five foot variance on the north side build line for lot four so that we can build a home that stays in harmony with the other beautiful homes we have built thus far. The new homes on Caroline have increased the property values in the city of Montgomery and we are proud to say all of our homes have set records for price per foot and we would like to continue this trend. By allowing these variances we can continue to build the same beautiful product that we have started. Thank you in advance for your consideration of our request.

Sincerely  
QBS Custom Homes Inc  
Damon Scott



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

February 1, 2018

The Planning and Zoning Commission  
City of Montgomery  
101 Old Plantersville Road  
Montgomery, Texas 77316

Re: Variance Request – Building Setback Requirement  
West Side at the Park  
City of Montgomery

Commission Members:

Section 78-90(a) of the City of Montgomery Code of Ordinances specifies front building lines not facing major streets must have a building setback of no less than 25 feet from the front property line. Section 78-90(b) specifies the building line on the street side of corner lots must be no less than 15 feet from the side street property line.

- The Developer is requesting a variance from a 25-foot building line to a 20-foot building line along the frontage of Shepperd Street.
- The Developer is requesting a variance from a 15-foot building line to a 10-foot building line along the frontage of Caroline Street.

Enclosed you will find a request for variance as submitted by the home builder. We offer no objection to the requested variance on the grounds that the City's existing water, sanitary sewer, and drainage utilities would not be impacted by the variance.

If you have any questions or comments, please contact me.

Sincerely,

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

Chris Roznovsky, PE  
Engineer for the City

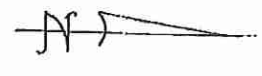
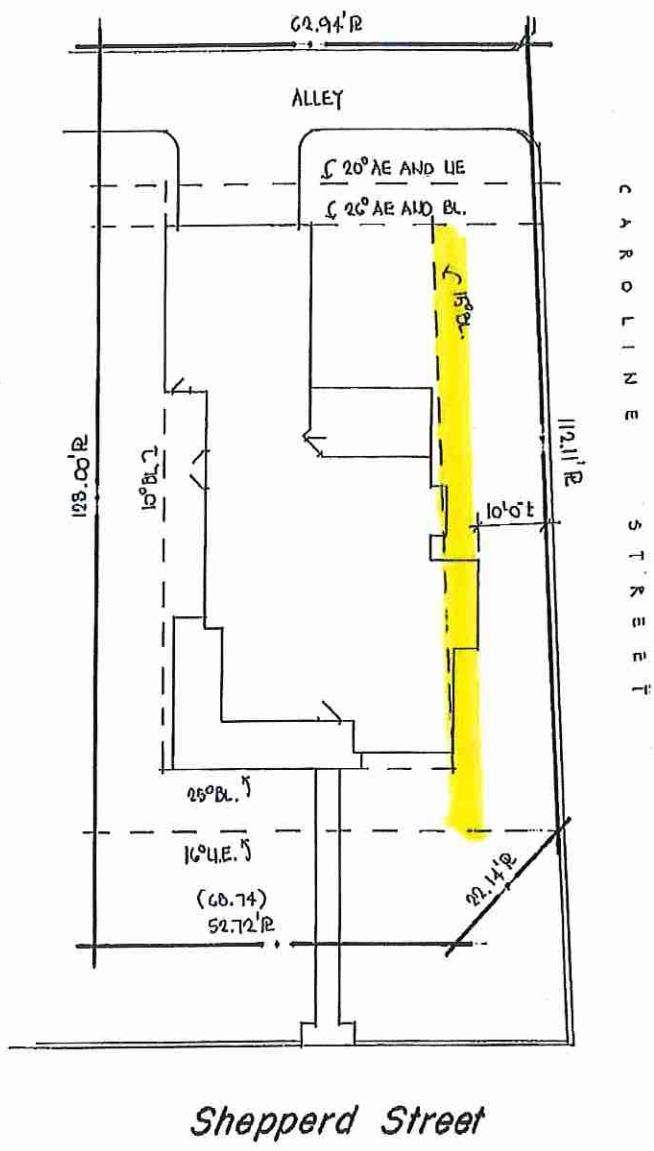
CVR/ab

K:\W5841\W5841-0900-00 General Consultation\Meeting Files>Status Reports\2018\P&Z Reports\West Side at the Park, Variance Request-P&Z Opinion.doc

Enclosures:

West Side at the Park – Variance Request  
cc/enc:The Honorable Mayor and City Council, City of Montgomery  
Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler & Creighton, City Attorney

\* Lot 4 site Plan. ASKING for 10' side Build Line. All other Side Build LINES ARE 10' except for Lot #4.



CAROLINE STREET

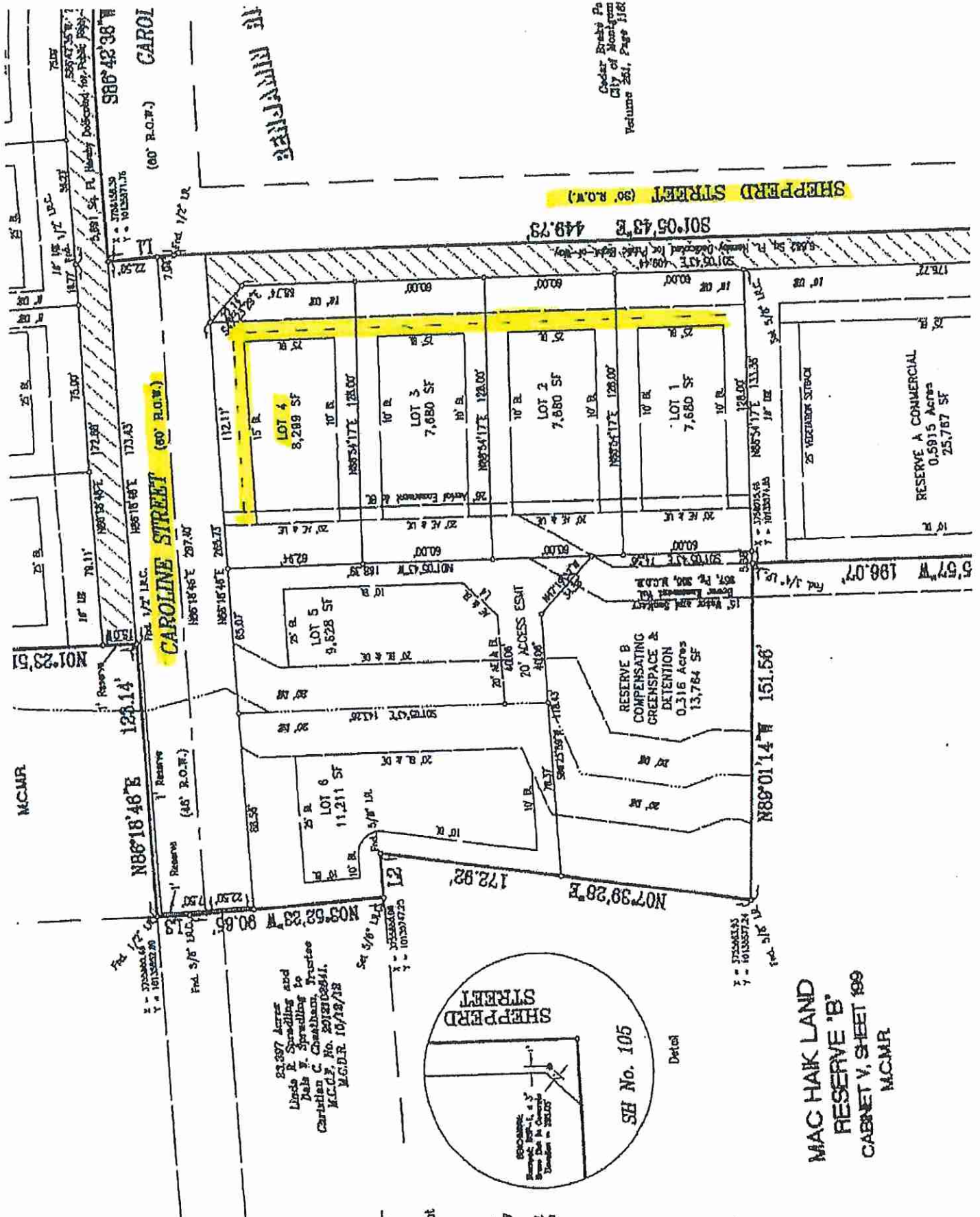
Sheppard Street

site plan  
 SCALE: 1/16" = 1'-0"  
 LOT 4  
 WEST SIDE AT THE PARK  
 MONTGOMERY, TEXAS



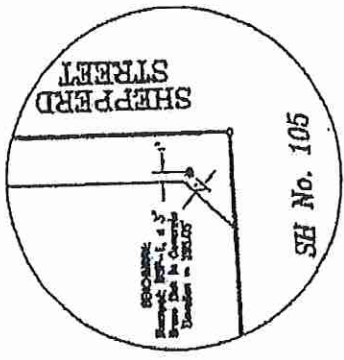
QBS Custom Homes, Inc.  
 09.04.14 10.24.14





Cedar Brook Pk  
City of Montgum  
Volume 251, Page 118

23,387 Acres and  
Lots A Spreading to  
Dale & Spreading to  
Caroline C. Chesham, Trustee  
M.C.C.P. No. 201810891.  
M.C.D.R. 10/18/18



Detail

MAC HAIK LAND  
RESERVE 'B'  
CABINET V. SHEET 199  
M.C.M.P.

City of Mont-  
gum, 1989.  
Central Zone  
may be brought  
factor of:  
dedicated  
ed by a plat  
p. Community  
. the tract  
Shaded' being  
by flood plans  
respectively.



Lots 1-4

Please see full prescribing information enclosed.

281-989-5478  
AQS  
AGRICULTURAL  
QUESTIONS  
ANSWERED  
BY  
AGRICULTURAL  
QUESTIONS  
ANSWERED  
BY

front of lots

1-4

Please see full prescribing information enclosed.



Pics of Homes

Built By QBS Homes

ON Caroline

*Please see full prescribing information enclosed.*



Pics of Homes

Built By QBS Homes

on Caroline.

WANT TO Continue  
This Look on Shepherd

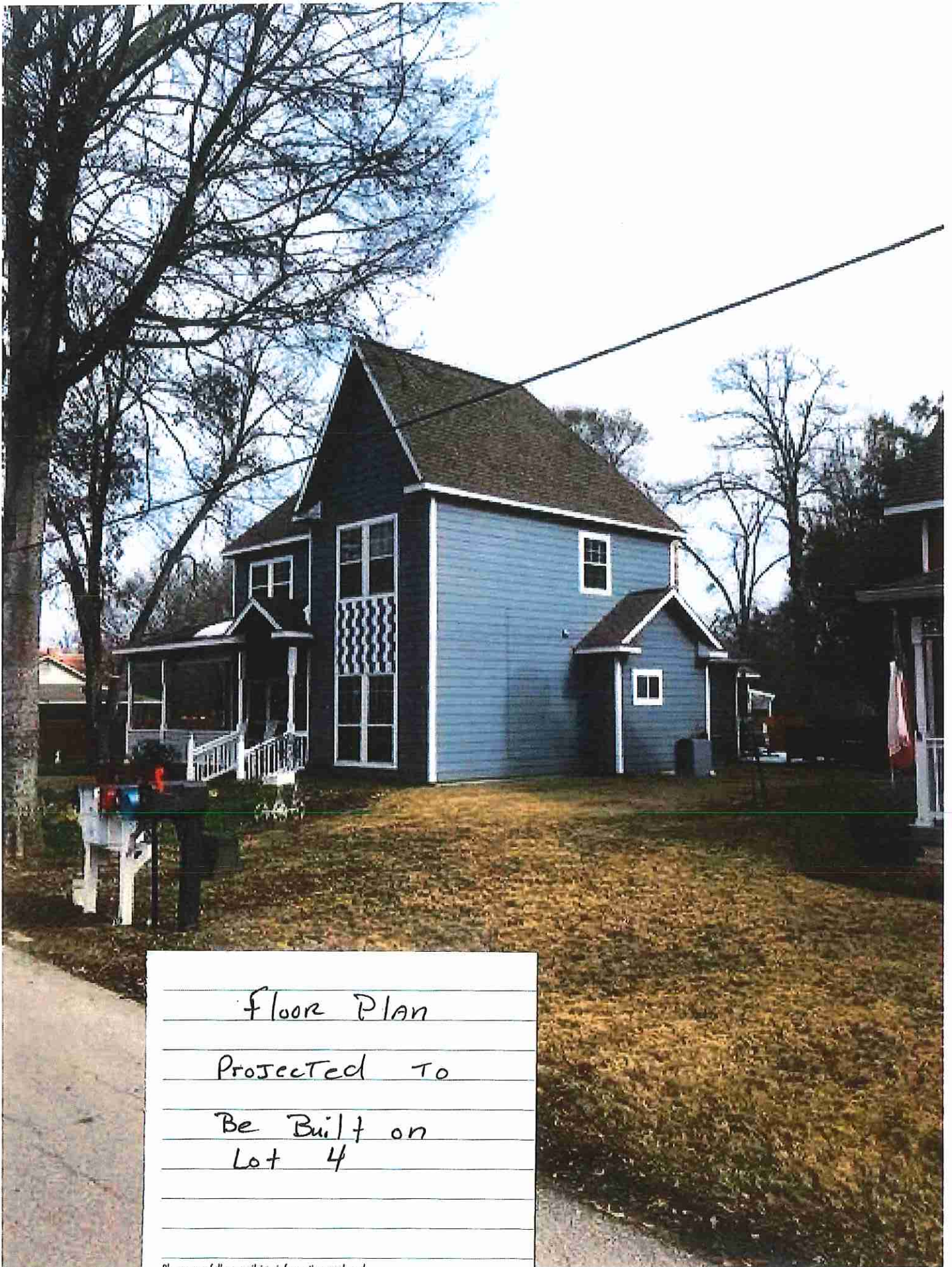
*Please see full prescribing information enclosed.*



Picture of 12'  
Alley. Need 5'  
Variance so Drive  
way will Accomodate  
Standard Car.  
Without, Car will Hang  
out into Alley  
5' Variance will Allow  
20' Driveway.

Please see full prescribing information enclosed.



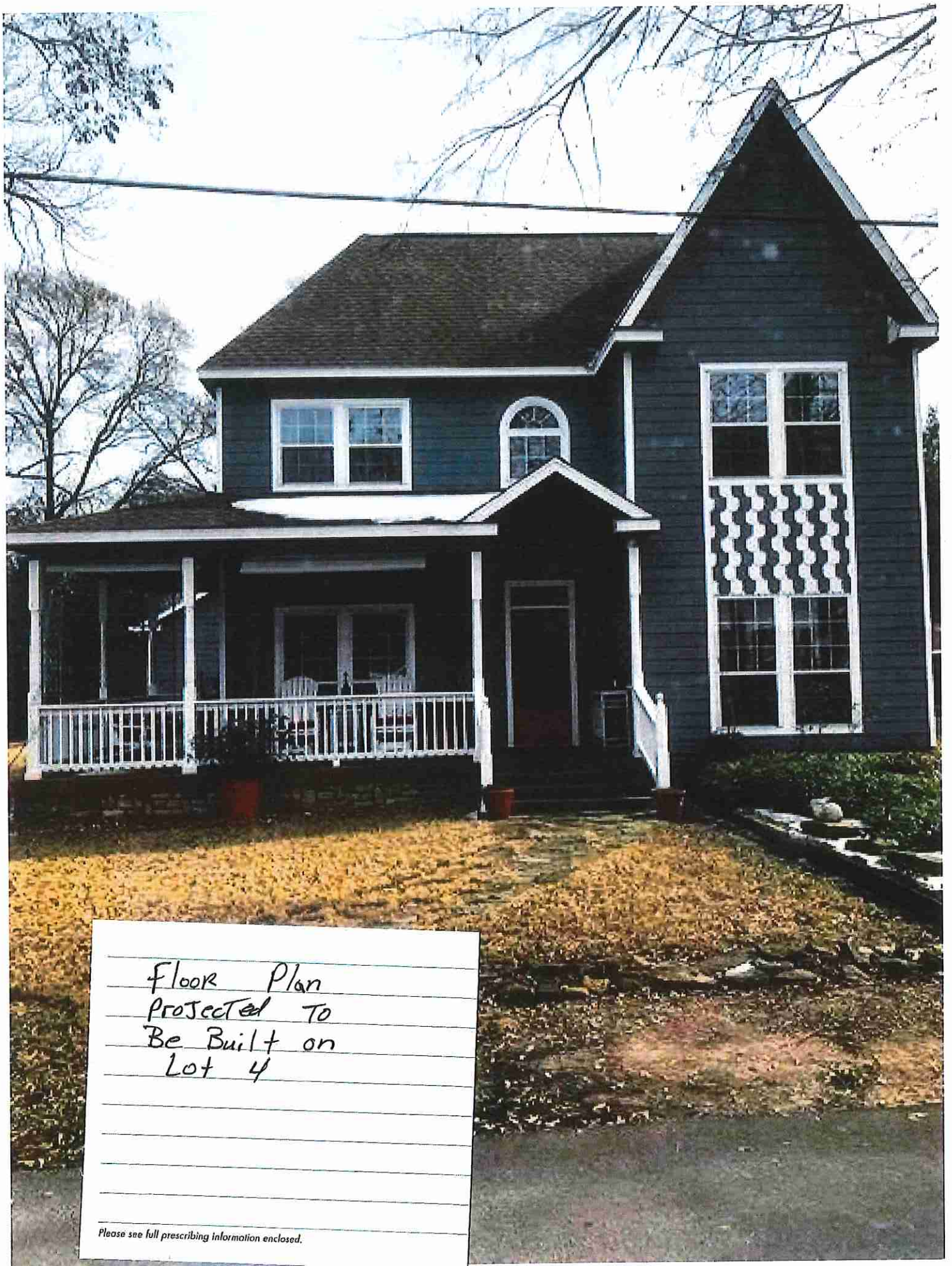


Floor Plan

Projected to

Be Built on  
Lot 4

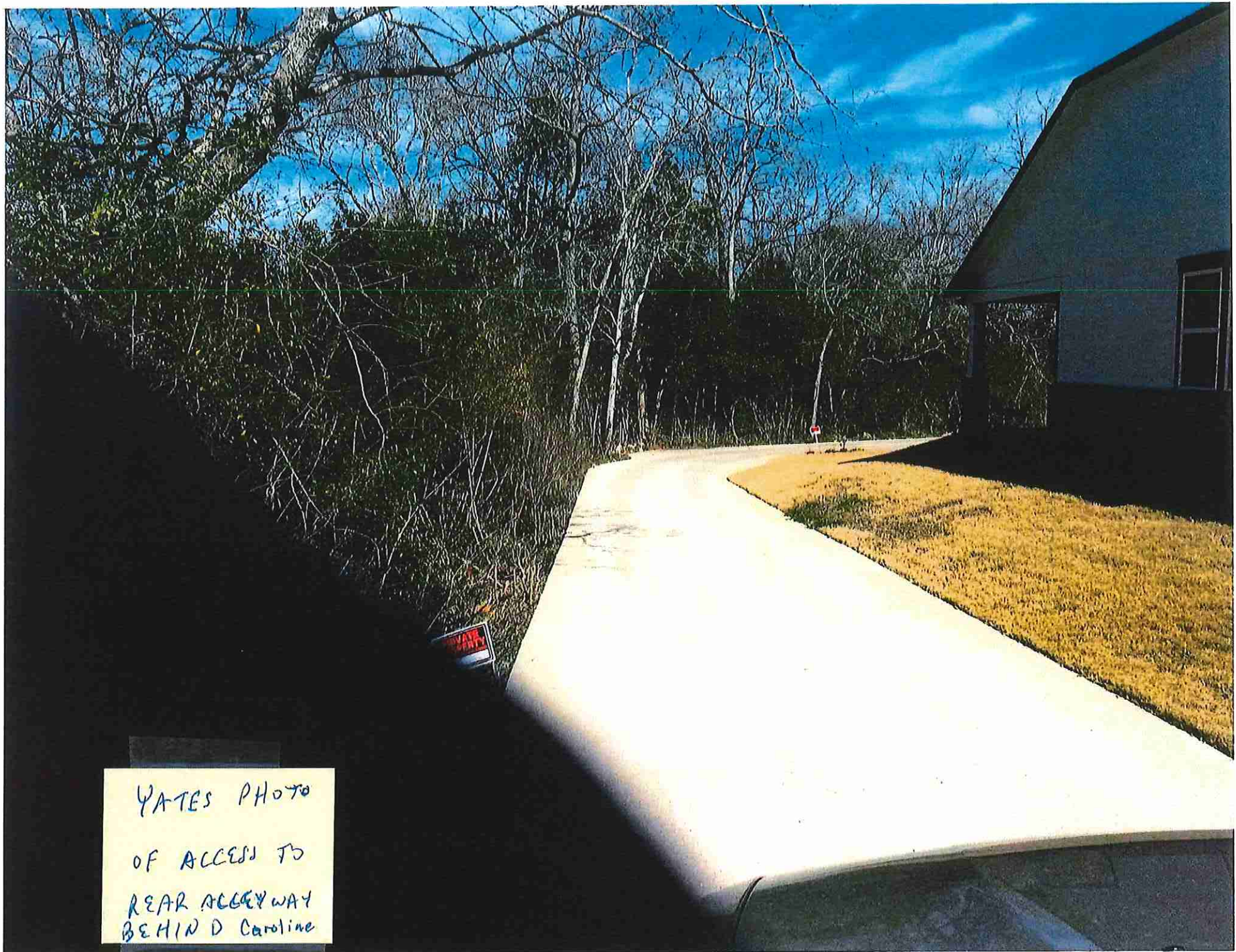
*Please see full prescribing information enclosed.*



Floor Plan  
Projected To  
Be Built on  
Lot 4

*Please see full prescribing information enclosed.*





YATES PHOTO  
OF ACCESS TO  
REAR ALLEYWAY  
BEHIND Caroline



YATES PHOTO  
OF NARROW  
ALLEYWAY  
BEHIND CAROLINE

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b>	February 13, 2018	<b>Budgeted Amount:</b>	
<b>Department:</b>	Administration		
	Susan Hensley		<b>Merchant TABC and City Application for Beverage Permit</b>
<b>Prepared By:</b>		<b>Exhibits:</b>	
<b>Date Prepared:</b>	February 8, 2018		

**Subject**

Application for an Alcohol Beverage Permit for Uncle Bob's BBQ Montgomery to be located at 20873 Eva Street, Suite G, Montgomery, as submitted by Robert L. Blalock, Jr. This is the location previously occupied by Pizza Shack.

**Recommendation**

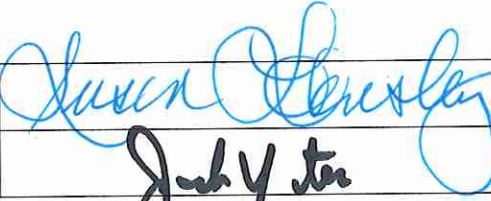
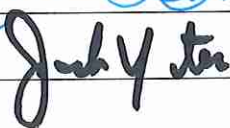
Review and approval of the Alcohol Beverage Permit Application for the sale of Mixed Beverages for Uncle Bob's BBQ Montgomery.

**Discussion**

This is the second beverage permit application that will be processed under the new City ordinance. While this process does still require the vendor to come before City Council to request that their Beverage Permit be reviewed and approved during an open meeting, the City is no longer required to call a public hearing, mail out notices, or publish a legal notice.

Uncle Bob's BBQ has another location in Willis by Stow-away Marina on Lake Conroe. TABC processes applicants that already have a license a lot faster. Additionally, this business will be going into a location that was previously approved for the sale of wine and beer. This beverage permit will be for the sale of mixed beverages.

**Approved By**

<b>City Secretary</b>		Date: 02/08/18
<b>City Administrator</b>		Date: 2-9-2018



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77356
936-597-3288
www.montgomerytexas.gov

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: 02/07/18

1. Type of Alcoholic Beverage License: (attach completed TABC Application Form)

- (1) Category A - Off Premises Consumption Sale of All Alcoholic Beverages - Package Store
(2) Category B - Off Premises Consumption Sale of Wine, Beer or Ale.
(3) Category C - Off Premises Consumption Sale of Beer.
(4) Category D - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Restaurant or Cafe, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or cafe.
(5) Category E - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
(6) Category F - Warehouse storage of Beer, Wine or Liquor for Distributors - No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: ATTACHED

3. Exact Nature of the Business to be operated. (Must be fully described in cover letter on company letterhead).

4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale.

5. Description of signs and the hours they will be operated to be attached as a separate document.

6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).

7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.

8. Business Owner: ROBERT L. BLALOCK, JR Phone: 936/203-6596
Address: 38 CAMDEN HILLS DR. MONTGOMERY, TX 77356
Home Address: SAME Phone:

9. Land Owner: P.D. MONTGOMERY TRACE, LP Phone: 972/673-4000
Address: 50 BENCHMARK PREFERRED MANAGEMENT, LLC 5700 LEGACY DR. SUITE 10 PLANO, TX. 75024

10. Business Partners: TERESA M. BLALOCK Phone: 936/537-0577
Address: 38 CAMDEN HILLS DR. MONTGOMERY, TX 77356
Home Address: SAME Phone:

This is to certify that I, ROBERT L. BLALOCK, JR have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

[Signature]
Business Owner and/or Lessee

or [Signature]
Partner if Applicable

rbalock1@icloud.com

11. A cover letter on your company's letterhead shall include a description of the nature of the business to be conducted, the names and address and interests of all persons having a direct or indirect financial interest in the property. The cover letter can include any other requested information that needs further description.

---

Upon receipt of this application form and confirmation that all items have been received, you will be notified of the date and time of the City Council Public Hearing by the City Secretary.

The public hearing will require legal notice to be published in the City's official newspaper, the Conroe Courier 15-days prior to the meeting. There is also a required notice to be sent by mail ten (10) days in advance of the Public Hearing to all property owners within 200 feet of the property in question.

If the application is not approved by City Council, no new application may be filed for a period of one year from the date of the public hearing and original application, unless City Council shall determine that conditions have so changed that an earlier hearing would be justified.

The provisions of City Code shall be considered concurrent with or in addition to the Texas Alcoholic Beverage Code, and, where a conflict may be found to exist, the provisions of the Texas Alcoholic Beverage Code shall apply. Applicants for a City alcoholic beverage license must comply with all applicable state and county codes and regulations as well as the requirements of the City Code.

It shall be unlawful for any person to manufacture, brew, distill, sell or distribute any wine, beer, liquor or other alcoholic beverage within the City, or engage in any other activity for which a license or permit is required by the Texas Alcoholic Beverage Code, without first obtaining a license so to do from the City. The annual fee for each such license shall be an amount equal to one-half the fee charged by the state for a license or permit to engage in a similar activity.

**Note: The Alcoholic Beverage Code, provides that a mixed beverage permit is exempt from City permit fees during the three year period following the issuance of the permit.**

If you require any additional information, please contact the City Secretary, Susan Hensley at (936) 597-3288.

*Form – REV 06/2017*

Uncle Bob's BBQ Montgomery  
20873 Eva St.  
Suite G  
Montgomery, TX. 77356  
**936/203-6596 Phone**  
**936/597-7627 Fax**  
[Bob@unclebobssauces.com](mailto:Bob@unclebobssauces.com)  
[Terri@unclebobssauces.com](mailto:Terri@unclebobssauces.com)  
[www.unclebobssauces.com](http://www.unclebobssauces.com)



FEBRUARY 4, 2018

**City of Montgomery, Texas**

P. O. Box 708  
Montgomery, Texas 77356

Dear City of Montgomery, Texas,

Uncle Bob's BBQ Montgomery, located at 20873 Eva St., Suite G, Montgomery, TX. 77356, will be a full service restaurant primarily serving food such as BBQ and burgers along with a full service bar operating no later than 12 midnight. Uncle Bob's BBQ & Catering will serve the catering needs of the surrounding area and Uncle Bob's Sauces will operate and manufacture sauces, rubs, and seasonings out of this facility as well.

The building is not within three hundred (300) feet of a church, school or hospital. The building is compliant with the requirements of this chapter for separate and adequate toilet facilities for men and women.

Uncle Bob's BBQ Montgomery is wholly owned and operated by Robert L. Blalock, Jr. and Teresa M. Blalock with both holding 50% ownership. Their address is 38 Camden Hills Dr., Montgomery, TX. 77356.

Renditions of signage are attached. Uncle Bob's BBQ will be placed on the front across the top of the building. Uncle Bob's BBQ will replace Pizza Shack on the third line from the top on the Montgomery Trace Center marquis sign. The round Pizza Shack sign on the front of the building will be reworked with the attached Uncle Bob's logo. The signs will be operated during business hours from 11am to 11pm.

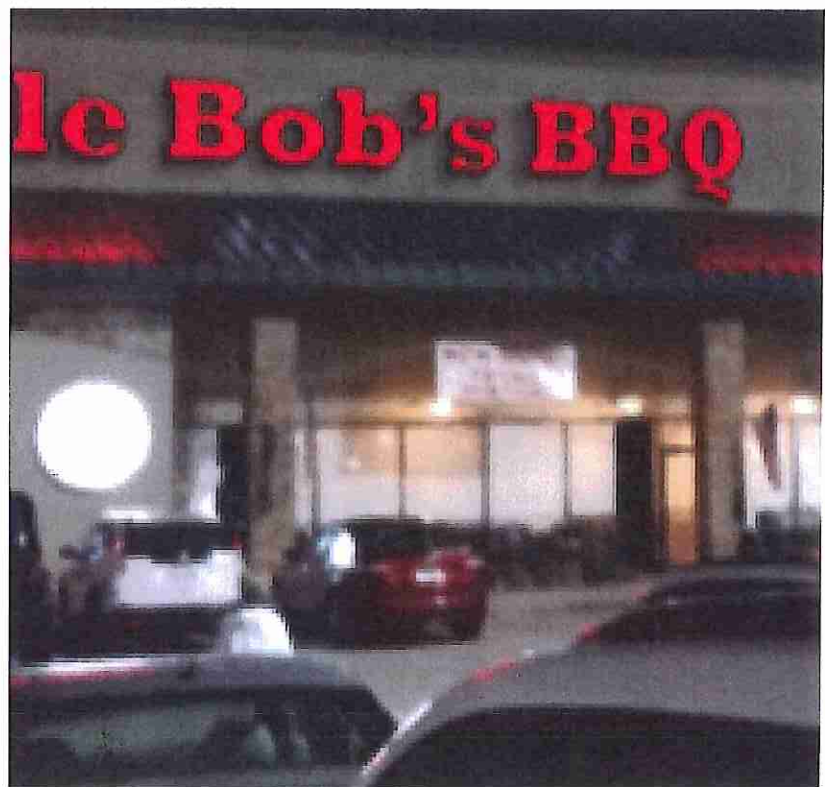
Uncle Bob's BBQ Montgomery is very excited to serve the City of Montgomery and surrounding areas.

Warm regards,

A handwritten signature in black ink that reads "Robert L. Blalock, Jr." The signature is written in a cursive style.

**Robert L. Blalock, Jr.**  
PRESIDENT







MONTGOMERY TRACE CENTER

*Brookshire Brothers*



WOOD FOREST Member FDIC



*Pizza Shack*

PHYSICAL THERAPY

**+** FAMILY MEDICINE



THE MAIL STOP  
*DHL* FedEx



**SUBWAY**



COFFEE SHOP

Shanon Salsbury

**State Farm**

FAMILY MEDICINE  
Kimberly Zobal, M.D.

MEDICINE 936-597-5555

*Sunkissed*  936-597-7004

**El Bosque**  
MEXICAN GRILL

**ANYTIME FITNESS**

**NAILS & SPA**

NEW SIGN LOCATION





REPLACEMENT  
SIGN







# ON-PREMISE PREQUALIFICATION PACKET

L-ON  
(12/2017)

Submit this packet to the proper governmental entities to obtain certification for the type of license/permit for which you are applying as required by Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13

Contact your local TABC office to verify requirements of Sections 11.391 and 61.381 as you may be required to post a sign at your proposed location 60-days prior to the issuance of your license/permit.

All statutory and rule references mentioned in this application refer to and can be found in the Texas Alcoholic Beverage Code or Rules located on our website. [www.tabc.texas.gov/laws/code\\_and\\_rules.asp](http://www.tabc.texas.gov/laws/code_and_rules.asp)

## LOCATION INFORMATION

1. Application for:  Original  Add Late Hours Only License/Permit Number

Reinstatement License/Permit Number

Change of Licensed Location License/Permit Number

2. Type of On-Premise License/Permit

- |   |   |
|---|---|
| <input type="checkbox"/> <b>BG</b> Wine and Beer Retailer's Permit                            | <input type="checkbox"/> <b>LB</b> Mixed Beverage Late Hours Permit         |
| <input type="checkbox"/> <b>BE</b> Beer Retail Dealer's On-Premise License                    | <input type="checkbox"/> <b>MI</b> Minibar Permit                           |
| <input type="checkbox"/> <b>BL</b> Retail Dealer's On-Premise Late Hours License              | <input type="checkbox"/> <b>CB</b> Caterer's Permit                         |
| <input type="checkbox"/> <b>BP</b> Brewpub License  | <input type="checkbox"/> <b>FB</b> Food and Beverage Certificate            |
| <input type="checkbox"/> <b>V</b> Wine & Beer Retailer's Permit for Excursion Boats           | <input type="checkbox"/> <b>PE</b> Beverage Cartage Permit                  |
| <input type="checkbox"/> <b>Y</b> Wine & Beer Retailer's Permit for Railway Dining Car        | <input type="checkbox"/> <b>RM</b> Mixed Beverage Restaurant Permit with FB |
| <input checked="" type="checkbox"/> <b>MB</b> Mixed Beverage Permit                           |   |
| <input type="checkbox"/> <b>O</b> Private Carrier's Permit – For Brewpubs (BP) with a BG only |   |

3. Indicate Primary Business at this Location

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Restaurant | <input type="checkbox"/> Sporting Arena, Civic Center, Hotel | <input type="checkbox"/> Bar                 |
| <input type="checkbox"/> Grocery/Market        | <input type="checkbox"/> Sexually Oriented                   | <input type="checkbox"/> Miscellaneous _____ |

4. Trade Name of Location

Uncle Bob's BBQ Montgomery

5. Location Address

20873 Eva St. Suite G

City Montgomery	County Montgomery	State TX	Zip Code 77356
--------------------	----------------------	-------------	-------------------

6. Mailing Address

20873 Eva St. Suite G

City Montgomery	State TX	Zip Code 77356
--------------------	-------------	-------------------

7. Business Phone No.

936/203-6596

Alternate Phone No.

936/537-0577

E-mail Address

rblalock1@icloud.com

## OWNER INFORMATION

8. Type of Owner

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Individual                    | <input type="checkbox"/> Corporation                          | <input type="checkbox"/> City/County/University |
| <input type="checkbox"/> Partnership                   | <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____            |
| <input type="checkbox"/> Limited Partnership           | <input type="checkbox"/> Joint Venture                        |   |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Trust                                |   |

9. Business Owner/Applicant

Robert L. Blalock, Jr.

10. Are you, the applicant a veteran-owned business?  Yes  No

11. Are you, the applicant a Historically Underutilized Business (HUB)?  Yes  No

**12. As indicated on the chart, enter the individuals that pertain to your business type:**  
(For additional space, use Form L-OIC)

Individual/Individual Owner	Limited Liability Company/All Officers or Managers
Partnership/All Partners	Joint Venture/Venturers
Limited Partnership/All General Partners	Trust/Trustee(s)
Corporation/All Officers	City, County, University/Official

Last Name Blalock, Jr.	First Name Robert	MI L	Title President
Last Name Blalock	First Name Teresa	MI M	Title Vice President
Last Name	First Name	MI	Title

### MEASUREMENT INFORMATION

Section 109.31 et seq.

**13.** Will your business be located within 300 feet of a church or public hospital?  Yes  No

**NOTE:** For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

**14.** Will your business be located within 300 feet of any private/public school, day care center or child care facility?  Yes  No

If "YES," are the facilities located on different floors or stories of the building?  Yes  No

**NOTE:** For private/public schools, day care centers and child care facilities measure in a direct line from the nearest property line of the school, day care center or child care facility to the nearest property line of the place of business, and in a direct line across intersections.

**NOTE:** For multistory building: businesses may be within 300 feet of a day care center or child care facility as long as the facilities are located on different floors of the building.

**NOTE:** If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

**15.** Will your business be located within 1,000 feet of a private school?  Yes  No

**16.** Will your business be located within 1,000 feet of a public school?  Yes  No

### 60-DAY SIGN

**17.** As required under Section 11.391 and 61.381, enter the exact date the 60-Day sign was posted at your location.

Exact Date (MM/DD/YYYY)

NA

### ALL APPLICANTS

**18. IF YOUR LOCATION IS NOT WITHIN THE CITY LIMITS, CHECK HERE**

I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.

**WARNING AND SIGNATURE**

**IF APPLICANT IS SHOWN AS:**

- Proprietorship
- Partnership
- Corporation
- Limited Partnership
- Limited Liability Partnership
- Limited Liability Company

**WHO MUST SIGN:**

- Individual Owner
- Partner
- Officer
- General Partner
- General Partner
- Officer/Manager

**WARNING:** Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

I, UNDER PENALTY OF LAW, HEREBY SWEAR THAT I HAVE READ ALL THE INFORMATION PROVIDED IN THE APPLICATION AND ANY ATTACHMENTS AND THE INFORMATION IS TRUE AND CORRECT. I ALSO UNDERSTAND ANY FALSE STATEMENT OR REPRESENTATION IN THIS APPLICATION CAN RESULT IN MY APPLICATION BEING DENIED AND/OR CRIMINAL CHARGES FILED AGAINST ME. I ALSO AUTHORIZE THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO USE ALL LEGAL MEANS TO VERIFY THE INFORMATION PROVIDED.

PRINT NAME

ROBERT L. BLALOCK, JR

SIGN HERE

TITLE

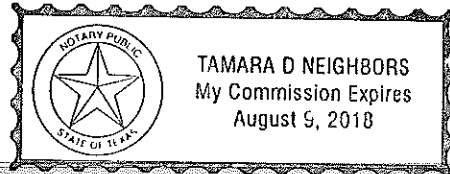
PRESIDENT

Before me, the undersigned authority, on this 1 day of Feb, 2018, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE

NOTARY PUBLIC

SEAL



**CERTIFICATE OF CITY SECRETARY (FOR MB, RM, V & Y)**

Section 11.37

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN

HERE

\_\_\_\_\_  
City Secretary/Clerk

\_\_\_\_\_, TEXAS  
City

SEAL

**CERTIFICATE OF CITY SECRETARY (FOR BG & BE)**

Section 11.37 & 61.37

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

**Election for given location was held for:**

- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
- legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

**OR IF ABOVE DOES NOT APPLY:**

Be advised the location must have had two election passages per Section 25.14 or Section 69.17 of the TABC Code. One for beer and wine off-premise and one for mixed beverage.

- legal sale of beer and wine for off-premise consumption only

**AND EITHER:**

- legal sale of mixed beverages

**OR**

- legal sale of mixed beverages in restaurants by food and beverage certificate holders (applicant must apply for FB with BG or BE)

SIGN

HERE

\_\_\_\_\_  
City Secretary/Clerk

\_\_\_\_\_, TEXAS  
City

SEAL

**CERTIFICATE OF CITY SECRETARY FOR LATE HOURS LICENSE/PERMIT  
(LB & BL)**

Chapters 29 & 70 et seq.

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that one of the below is correct:

- The governing body of this city has by ordinance authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
- The governing body of this city has by ordinance authorized the sale of **beer** between midnight and \_\_\_\_\_ A.M.; or
- The population of the city or county where premises are located was 500,000 or more according to the 22<sup>nd</sup> Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

**SIGN**

**HERE** \_\_\_\_\_, TEXAS  
City Secretary/Clerk City

**S E A L**

**CERTIFICATE OF COUNTY CLERK (FOR MB, RM, V & Y)**

Section 11.37

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

**SIGN**

**HERE** \_\_\_\_\_ COUNTY  
County Clerk

**S E A L**

**CERTIFICATE OF COUNTY CLERK (FOR BG & BE)**

Section 11.37 & 61.37

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the location for which the license/permit is sought is in a "wet" area and is not prohibited by any valid order of the Commissioner's Court.

**Election for given location was held for:**

- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
- legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

**OR IF ABOVE DOES NOT APPLY:**

Be advised the location must have had two election passages per 25.14 or 69.17 of the TAB Code. One for beer and wine off-premise and one for mixed beverage.

- legal sale of beer and wine for off-premise consumption only

**AND EITHER:**

- legal sale of mixed beverages

**OR**

- legal sale of mixed beverages in restaurants by food and beverage certificate holders (applicant must apply for FB with BG or BE)

**SIGN**

**HERE** \_\_\_\_\_ COUNTY  
County Clerk

**S E A L**

## CERTIFICATE OF COUNTY CLERK FOR LATE HOURS LICENSE/PERMIT (LB & BL)

Chapters 29 & 70 et seq

- I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that one of the below are correct:
- The Commissioner's Court of the county has by order authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
  - The Commissioner's Court of the county has by order authorized the sale of **beer** between midnight and \_\_\_\_\_ A.M.; or
  - The population of the city or county where premises are located was 500,000 or more according to the 22<sup>nd</sup> Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
  - The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

**SIGN**

**HERE** \_\_\_\_\_

County Clerk

\_\_\_\_\_ COUNTY

**S E A L**

## COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE

Section 11.46 (b) & 61.42 (b)

This is to certify on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number \_\_\_\_\_ Outlet Number \_\_\_\_\_

Print Name of Comptroller Employee \_\_\_\_\_

Print Title of Comptroller Employee \_\_\_\_\_

**SIGN**

**HERE** \_\_\_\_\_

**FIELD OFFICE** \_\_\_\_\_

**S E A L**

## PUBLISHER'S AFFIDAVIT (FOR MB, LB, RM, BP, BG, BE, BL, V & Y)

Section 11.39 and 61.38

Name of newspaper		<b>ATTACH PRINTED COPY OF THE NOTICE HERE</b>
City, County		
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)		
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown.</i>		
Signature of publisher or designee Sworn to and subscribed before me on this date (MM/DD/YYYY)		
Signature of Notary Public		
<b>S E A L</b>		





**OWNERSHIP INFORMATION**  
Continued for Prequalification Packet

**LOCATION INFORMATION**

1. Trade Name of Location  
Uncle Bob's BBQ Montgomery

2. Location Address  
20873 Eva St. Suite G

City Montgomery	County Montgomery	State TX	Zip Code 77356
--------------------	----------------------	-------------	-------------------

**OWNER INFORMATION**

3. Type of Owner

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Individual                    | <input type="checkbox"/> Corporation                          | <input type="checkbox"/> City/County/University |
| <input type="checkbox"/> Partnership                   | <input checked="" type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____            |
| <input type="checkbox"/> Limited Partnership           | <input type="checkbox"/> Joint Venture                        |   |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Trust                                |   |

Last Name Blalock, Jr.	First Name Robert	MI L	Title President
Last Name Blalock	First Name Teresa	MI M	Title Vice President
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title

Montgomery City Council  
AGENDA REPORT

<b>Meeting Date:</b> February 13, 2018	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By:</b> Jack Yates City Administrator	<b>Exhibits:</b>
<b>Date Prepared:</b> February 7, 2018	

**Subject**

This is a Report from the City Engineer regarding the bridge repair construction.

**Description**

The Contractor is in construction now. There were two or three days for cold weather allowance from last weeks weather.  
No request for payment has been made yet, so no reason to act regarding the loan possibility.

**Recommendation**

Listen to the Report, comment as you feel appropriate

**Approved By**

City Administrator

Jack Yates

Date: February 7, 2018