

MINUTES OF PUBLIC HEARING and REGULAR MEETING

October 24, 2017

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
 Dave McCorquodale City Council Place # 5

Absent: Rebecca Huss City Council Place # 4

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 HEARINGS:

Convene into Public Hearings:

Mayor Jones convened into the Public Hearing at 6:02 p.m. Mayor Jones announced that this would be the second of two public hearings required for this annexation.

1. **Annexation of a 10.15-acre tract of land, more or less, described as a 120-foot right-of-**

way in State Highway 105 west of the City of Montgomery and in the BENJAMIN RIGBY SURVEY, Abstract No. 31, of Montgomery County, Texas. (This is the second of two Public Hearings)

Mr. Yates said that this was the public hearing regarding the annexation of SH 105. Mr. Yates said that on the west side of Montgomery, they have the north and south side of SH 105 annexed in that area, but they have not annexed SH 105 itself. Mr. Yates said that the Police Department had asked them to look into this matter because of enforcement of the traffic laws and working traffic accidents, which is the reason that it is being considered. Mr. Yates advised that the action to annex SH 105 will be on the November 14, 2017 City Council Meeting Agenda.

Mayor Jones advised that this is a public hearing and anyone from the public wishing to make a comment can do so. There were no comments made by the public.

Adjourn Public Hearings

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

Convene into Regular Meeting

Mayor Jones then convened into the Regular Meeting.

VISITOR/CITIZENS FORUM:

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

Mayor Jones advised that Ms. Samantha Williams had requested to speak. Ms. Williams was no longer present at the meeting, but Mr. Yates said that he had spoken with Ms. Williams prior to the meeting and she stated that she would come to see Mr. Yates tomorrow.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Public Hearings and Regular Meeting held on October 10, 2017.
3. Consideration and possible action regarding adoption of the following Resolution:
A BANKING RESOLUTION WITH FIRST FINANCIAL BANK TO CHANGE THE NAME OF THE MONTGOMERY INDUSTRIAL DEVELOPMENT CORPORATION ACCOUNT TO THE MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION.
4. 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 TBD.
5. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION REGARDING ADOPTING REQUIRED CDBG CIVIL RIGHTS POLICIES FOR THE CITY OF MONTGOMERY, TEXAS.
6. Consideration and possible action regarding adoption of the following Proclamation:
A PROCLAMATION PROCLAIMING APRIL AS FAIR HOUSING MONTH.
7. Consideration and possible action regarding renewal of the TMLIEBP COBRA Administrative Services Contract.
8. Consideration and possible action regarding placement of two (2) speed bumps on College Street.
9. Consideration and possible action regarding scheduling a Public Hearing regarding Water and Sewer Rate Increase to be held on November 14, 2017 at 6 p.m. at City Hall.
10. Consideration and possible action regarding acceptance of the Certificate of Substantial Completion for Lake Creek Village, Section 3.

Dave McCorquodale asked to pull, for discussion, Consent Agenda Item 8, regarding the placement of two speed bumps on College Street. Dave McCorquodale said that the City has done a really good job on speed bumps, and with two more on College Street, which is a dead end street, it seemed that it would be okay with him. Dave McCorquodale asked if they could make sure that the design of the speed bump matches the speed limit of the road. Dave McCorquodale said that it was his understanding that you should be able to travel at

the posted speed limit over whatever traffic calming measure is used. Dave McCorquodale pointed out that the speed bumps in front of City Hall can't be travelled over at the posted speed limit of 20 miles per hour, they are more like 10 miles an hour, but they are better than a zero mile per hour that was there before they were installed. Dave McCorquodale said that they are moving in the right direction, and asked that if the City could, as they build the speed bumps, look at the design of them and make sure that they match the speed of the road. Dave McCorquodale said that there was no sense in stopping traffic to five miles per hour if the speed limit is 20 miles per hour on the road.

Mayor Jones said that there was a goal to slow traffic down. Dave McCorquodale said that he was all in favor of that, he just wanted the City to make sure that, as a best practice for traffic control, they should make sure that they do not put things in the road that would make someone unable to go the speed limit.

Dave McCorquodale moved to approve the Consent Agenda items as submitted. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

11. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his report to City Council. John Champagne asked about the meetings held with several developers during the month pertaining to Heritage Plaza Medical Center, Villas of Mia Lago and the West Mont Building, etc., how the current working relationship is with these developers. Mr. Yates said that he thought that they were all good relationships. John Champagne asked Mr. Yates how he gauged that information and what Metrix was he using. Mr. Yates said that he was determining that by whether or not they are able to agree on their development and the City not getting in the way of the developer's planning. John Champagne said that he could not agree more, and asked if the developers would agree with that statement. Mr. Yates said that he thought that they would agree. Mr. Yates said that he had thought about writing the developers a letter to survey how they felt about that type of issue, which

came up about a week ago as a possibility to get their responses on whether the engineers have been responsive enough and correct enough in their reviews, and how the City Administrator was doing as far as their water and sewer connections and utility placements. John Champagne said that if a City Council member is getting the indication that it might not be as harmonious as we think it is right now, from this conversation, he would think that City staff should know, before he knows, whether it is or is not harmonious. John Champagne asked if escrows have been an issue with any of these developments. Mr. Yates said that it has sort of been an issue with West Mont, KENROC, Waterstone, and the Shoppes of Montgomery does not have an issue with escrow. John Champagne said that regarding the escrow account, he asked if it was a fixed amount as a percentage of the construction cost, or is it a moving and ongoing amount. Mr. Yates said that it was an estimate that the City Engineer gives him and is based on the complexity of the development. John Champagne asked if the amount was fixed. Mr. Yates said that it is primarily \$3,000 for a minor development and \$5,000 for a more detailed development. John Champagne said that in his world, an escrow account means an account with a given amount of money set aside for contingencies, upcoming bills, etc. Mr. Yates said that was correct. John Champagne asked if the account amount was fixed or as the project goes on, is it added to. Mr. Yates said that the account is added to as needed. Mr. Yates said that the first figure is just an estimate and then they actually charge based upon the hours that the City Engineer charges the City. Mr. Yates said that if the escrow account amount needs to increase, they contact the property owner and advise them. Dave McCorquodale asked if they did not spend all their funds, then the developer would get them back, and asked if that ever happened. Mr. Yates said that yes, probably half of the developers get their funds back. Mr. Yates said that there are several escrow accounts that need to be billed at this time. John Champagne asked if the escrow account transactions were transparent to the developer, in other words, do they know when they are being drawn upon and do they know an ongoing balance of the account. Mr. Yates said

that they were not as transparent as they could be. Mr. Yates said that some of them are not as transparent, but others are very transparent. John Champagne said that the only reason that it might not be transparent is that the City is not keeping up with the billing correctly. Mr. Yates said that was correct, but said that they have every bill for every withdrawal. John Champagne asked about the plan reviews and what the average length of time that they take to approve. Mr. Yates said that it was about a week and a half. Mayor Jones said that relative to that information, once the plan review process begins, Mr. Yates is probably not in the loop, it is the City Engineer talking to the developer's engineer. Mr. Yates said that was mostly correct, and said that a lot of the plans are redlined. Mr. Yates said that often there are two or three sets of reviews before a plan is approved. John Champagne said to Mr. Yates that the oversight of Jones and Carter is minimal in terms of City staff. Mr. Yates said that was correct. Mr. Yates said that part of his way of keeping up with Jones and Carter is by talking to the developers about how they feel about the red lines that they are getting during the review.

John Champagne said that his last question was to be directed to Jones and Carter. John Champagne asked if it would be an appropriate statement to say that average review times were around 30-days, with 3-10 submittals. Mr. Roznovsky said that it was all based on the development, and said the initial reviews do take longer, and said that, on average, they are probably closer to two to three weeks at the moment, just due to the quantity being submitted. Mr. Roznovsky said that as far as the number of reviews, again which is developer based, they have had some that are in and out within three reviews and others that were at eight or nine reviews. John Champagne asked from Mr. Roznovsky's vantage point, the reason for additional reviews would be inadequate response from the developer. Mr. Roznovsky said that was correct or changes made from the additional comments that had an effect on other parts of the plans.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works, presented his report to City Council. Mr. Muckleroy advised that they had pressure washed and striped the parking lot at City Hall; assisted with the National Guard ditch project on Martin Luther King, Jr.; and completed the large crack sealing project repairing Berkley, Harley, Anna Springs, Nathanael Court, Bessie Price Owens, Clepper, Prairie, Maiden, McCown, Caroline and College Streets; installed a blow off valve on Terra Vista water line that was damaged during Harvey. Mr. Muckleroy said that they had 5 water tapes, 3 sewer taps, 1 water leak in a private irrigation system and 2 sewer stop ups, one private and one lift station. Mr. Muckleroy reported that on the park side, they striped the parking lots at the Community Center, Homecoming Park and Memory Park; repaired the back porch at the Crane Cabin and repaired a flush valve at Homecoming Park. Mr. Muckleroy advised that the Fernland docents reported a total of 354 visitors for the month and they provided 24 tours.

Mayor Jones asked if the new parking lot had been striped. Mr. Muckleroy said that they did yesterday, with one thing lacking; they need to get with Mr. Cronin to see how they want the delivery area of the parking lot striped. Mr. Muckleroy said that all the handicapped parking areas are done also, they are just waiting for the signs to come in. Mayor Jones asked if anyone had advised Mr. Muckleroy that an issue came up during the Wine Festival regarding several signs being faded. Mr. Muckleroy advised that they were ordered about a week and a half ago and they should be received in another week to week and a half.

Jon Bickford thanked Mr. Muckleroy and said he did a good job.

- C. Police Department Report – Chief Napolitano presented his report to City Council. Chief Napolitano said that he wanted to thank City Council for approving the budget for the Police Department and allowing them to get Mrs. Kimberly Duckett as the new Administrative Assistant, and she is also helping the City Administrator part time until that position is filled. Chief

Napolitano said that Mrs. Duckett is a godsend to the Police Department; she is helping the department to get more organized and faster on the way they are taking care of things. Chief Napolitano said that it was amazing how adding that one person made such a difference. John Champagne said that way they can be Police Officers. Chief Napolitano said that was correct; just like today he had two meetings with local departments on local issues, which he will share with City Council to show the issues that are being discussed around the County, everything from traffic control to homeless issues that are affecting some areas more and some less. Chief Napolitano said that having Mrs. Duckett will allow him more time to attend these meetings instead of having to worry about pulling bills off the internet. Chief Napolitano said that he really appreciated the ability to have Mrs. Duckett.

Mayor Jones asked about the numbers, and said that it seemed that the narcotics arrests are higher than they used to be, and they assume that is mostly people passing through the City. Chief Napolitano said no, he would say that the increase in narcotics arrests from their department is because he has some officers that are very good at detecting and finding narcotics that are passing through the City, because they are in the cars being stopped. Chief Napolitano said that if they stop someone on a traffic violation, they might not file the ticket if they are going to prosecute them for a larger offense, possession of marijuana or possession of other narcotics. Chief Napolitano said that it still takes the officer 3-5 hours to process people with the County. Chief Napolitano said they had a DWI the other morning, who had approached one of the traffic lights and could not maneuver it, slid into the light and sat in the middle of the intersection, the officer made the traffic stop and discovered the narcotics in his vehicle. Chief Napolitano said that the person was arrested and taken to Conroe. Chief Napolitano said that Officer Carswell has been on light duty because of an injury, not work related, so he has been attending classes during this time to get more and more training in narcotics so they will be aware of what is happening on the

streets. Officer Carswell has already talked to Lt. Belmares about a lot of things and they will be attending another class with Lt. Belmares.

John Champagne said that it is getting pretty hard to get around town, and he is assuming that Lone Star Parkway is a large part of that problem. Chief Napolitano said that Lone Star Parkway is a huge part of that problem because a lot of the school traffic that would take Lone Star Parkway has to come through town. Chief Napolitano said that in the evenings Buffalo Springs is backing up all the way to the top of the hill and he is getting a lot of calls about Clepper Street. John Champagne asked about how the SH 105 and FM 149 light is synchronized, because it seems like, coming from the west at certain times, it is just backed up. Chief Napolitano said that both sides get backed up, but north and south is not as bad. Chief Napolitano said that when they had the problem on Flagship Boulevard, the traffic backed up. John Champagne asked, if possible, could we have an officer negotiate that light. Chief Napolitano said that they try, but he is down two officers, because Officer Carswell is out and Officer Bauer has moved over to warrants and Officer Riley is out on maternity leave, but will be back next week, so they will be back to three people. Chief Napolitano said that for weekends, Renaissance Festival and the football games cause traffic issues. Chief Napolitano said that they would work on the traffic issue a little harder.

- D. Court Department Report – Mr. Yates presented the Court report in the absence of Court Administrator Becky Kendall. Mr. Yates said that there were 143 citations filed last month for a total collection of \$32,935, which included \$7,600 in warrants collections, which they expect to go back up now that they have a full time Warrant Officer.
- E. Utility/Development Report – Mr. Yates presented the report to City Council, stating that there were \$130,000 billing for utilities this past month, and they have 613 active accounts. Mr. Yates reported that they collected \$8,940 in permits for the month and the Community Building revenue was \$1,095. Mr. Yates said that the water usage was down considerably on all

buildings except Memory Park, and for some reason Memory Park continues to stay up. Mr. Yates said that the standard answer for usage at Memory Park is that the water is going through the meter, but he is not sure why the numbers are staying that high. Mr. Yates said that he will talk to Mr. Randy Burleigh regarding this matter. John Champagne asked if the Memory Park system was so sophisticated that there is only one human being in the County that can check it. Jon Bickford said that person is not a City employee. Mr. Yates said that no, he thought that Mr. Muckleroy could do that. Mr. Muckleroy said that they also watch Memory Park, because Mr. Burleigh has turned more of the system over to them, and he is working with Mr. Standifer several days going over the entire irrigation system. Jon Bickford said that they are probably at a point where it is time to turn it off for the season, or at least way down. Mr. Muckleroy said that it looks like it went down considerably for August and September, and in the winter season the system will automatically cut it back.

- F. Water Report – Mr. Mike Williams, with Gulf Utility, presented his report to City Council. Mr. Williams advised that regarding the effluent flow, they peaked out on August 27, 2017 at 911,000 gallons, which is 228% of the permitted value, which was due to Hurricane Harvey. Mr. Williams said that the daily average flow was still within permit at 218,000 gallons. Mr. Williams said that there was 1.41 inches of rain during the month of September. Mr. Williams said that the water report showed that they totaled 98% accountability, even though on Well #3 they only pumped 1,000 gallons. Mr. Williams said that the Well meter did stick and they had to replace that meter, so at that time it was not registering the water. Mr. Williams said that the Well Motor Run Time Report showed that they logged 65 hours of run time for Well #3, and they believed that there is a leak out in the system, which has not surfaced yet. Mr. Williams said that Mr. Muckleroy's crew did find one today that they repaired. Mr. Williams said that they had all the well meters checked, and Well #2 was actually running 10% percent above what it was pumping, so it was registering more water than it was pumping, which they are getting repaired as well.

Mayor Jones said that they still have the electrical issues haunting them. Mr. Williams said that the last electrical issue that they saw was on August 22, 2017. Mr. Williams said that they are not experiencing any issues at Water Plant #2 right now, mostly due to the weather. Mr. Williams said that Entergy has made some repairs, but they do not have anything to support that information. Mr. Williams said that the last power issue that they had at Water Plant #2 was on September 7, 2017, due to a fuse that was down.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised that the cleaning and televising project was still underway, and they have coordinated with the contractor regarding the issues that he was having. Mr. Roznovsky said that, as of late last week, they have received a copy of all of their work orders and when he was physically out in the City to compare to the timeline of damages.

Mr. Roznovsky said that the next items to discuss are Lone Star Parkway and Lone Star Bend Projects. Mr. Roznovsky said, regarding Lone Star Bend, the plat that was holding up the project was finally recorded on October 13, 2017 and the contractor is beginning work on the Lone Star Bend connections to take from where it terminates to Bois D'Arc Road to have a direct connection from Walden Road to Kroger. Mayor Jones said that he spoke to the contractor a few minutes prior to this meeting, and at that moment he believed that the right-of-way issue had not been resolved and he does not know that he is supposed to be working. Mr. Roznovsky said that the issue has been resolved and they have told the County, because this is a County contract, and they are all very well aware that the right-of-way has been dedicated. Mr. Roznovsky said that there are emails between Jones and Carter and Montgomery County as recently as 4:00 p.m. today dating back from before the hurricane saying that it was on its way to the County, it is at the County and giving them the recording number and text photo of the recording, so they have been kept aware of the progress. Mayor Jones asked if Mr. Roznovsky was communicating directly with

Montgomery County, and the County may not be communicating with the contractor. Mr. Shackelford advised that in his correspondence he is also including the representative from the construction company. Mr. Shackelford said that the construction company was subbing the concrete portion of the project to another local contractor, and he does not know if they are advising that sub.

Mr. Roznovsky advised that Lone Star Parkway, according to the contractor's schedule, should be complete by the end of November running from FM 149 to SH 105.

John Champagne asked about Item G in the Engineer's Report, which is the Houston Street Widening and Rehabilitation Project, and why this was not on the Agenda for tonight as planned. Mr. Roznovsky advised that it was on him to finish up the specifications and documents, and coordinate with the engineer for the project to get the plans finalized. Mr. Roznovsky said that he was unable to get that completed and was unable to make it for the Agenda. Mr. Roznovsky said that the plan is to present the bids at the November 14, 2017 Meeting. John Champagne asked how many days they have been looking at this information, because he remembers City Council talking about this road widening a year and a half ago. Mr. Roznovsky said that the initial plans were finalized and put together for a bid package in the August–September time frame, and they have not been able to get it completed. Mayor Jones asked if there was a need to have a Special Meeting. Mr. Roznovsky said that while they are receiving bids they can still prepare the contracts to save time. Mr. Roznovsky said that that these and the bids for the Buffalo Springs Bridge will be coming in at the same time. John Champagne said that what Mr. Roznovsky is basically saying that the Widening and Rehabilitation of Houston Street was on the list and he could not get to it. Mr. Roznovsky said that it was one of the items that they just did not get completed enough to be able to accept bids, so that it is correct. Mr. Shackelford said that they lost about two weeks, and said that

the bids are due next Thursday. Mr. Roznovsky said that the bids for the bridge are due next Thursday, but he could not confirm the date for the other. John Champagne asked if the developer had been apprised of all this information. Mr. Roznovsky said that they need to sit down with their engineer and go over the information. Mr. Shackelford said that the bids are due on November 9, 2017 for Houston Street, and they will have time to evaluate the bids and check the contactors' credentials and make recommendations to City Council. John Champagne asked if the RFQ's have been submitted. Mr. Roznovsky said that they have not been submitted. Mr. Shackelford said that they will come in on the 9th of November.

- H. Financial Report - Mr. Yates presented the report to City Council. Mr. Yates reported that the total of all funds to be deposited is \$2,324,072. Mr. Yates said that the General Fund, which is not the final figure but is very close to it, was \$2,644,390 of revenue for the year, \$2,677,732 expenses, so they were \$333,421 over budget, which is 1.2% percent over the entirety of the budget.

Mr. Yates said that MEDC had \$474,000 in revenue and spent \$458,000, which left them with a \$15,477 balance. Mr. Yates said that the Utility Fund had \$1,541,986 in revenue, with \$1,190,297 expenses, leaving \$432,777 remaining. Mr. Yates said that \$183,000 of that is carryover that automatically goes to Capital Projects Fund for the City. Mayor Jones asked if that was from GRP Collections. Mr. Yates said that was correct. John Champagne asked about the balance. Mr. Yates said that the balance right now is \$432,778. John Champagne said that once the Capital Improvement is backed out, where the rest of the funds goes. Mr. Yates said that it is carried over to the next year. Mr. Yates said that amount would be \$289,000.

Mayor Jones asked about page 9 of the report and questioned the sales tax figures, because they were really large numbers. Mr. Yates said that the revenue for this year was \$1,416,964 in sales tax, and the budgeted amount

for sales tax was \$1,650,000 because they thought they were going to have six more months from Kroger. Mayor Jones said that he understood the numbers and was good with the information.

Jon Bickford moved to accept the Departmental Reports as presented. John Champagne seconded the motion, the motion carried unanimously. (4-0)

12. Consideration and possible action regarding a Demolition/Moving Permit for 304 John A. Butler Street to remove a building from the City of Montgomery as submitted by Joe Shockley.

Mr. Yates advised that it was a requirement in the Historic District Ordinance that any building that is removed or demolished in the Historic District has to be approved by the Planning and Zoning Commission and City Council. Mr. Yates said that the Planning and Zoning Commission met last night and approved the demolition of the building at 304 John A. Butler Street. Mr. Yates said that this is the Evolution PC building that has drainage issues, where water is getting into the building, and the building is leaning and the owner is having problems getting insurance, which is the reason that Mr. Shockley wants to remove the building. Mr. Yates said that Mr. Shockley also got approval from the Planning and Zoning Commission last night to put in another building at that location.

Mayor Jones asked if the building had any real historic significance. Mr. Yates said that he did not know of any historic significance for the building. John Champagne said that he thought Mr. Shockley brought that building to the City. Mr. Lonnie Clover said that he believed that Mr. Shockley moved that building into the City and it used to be the Kings Café years ago. Mayor Jones said that he would assume that whatever Mr. Shockley replaces would have some sort of historic architectural flavor. Dave McCorquodale said that it would have to pass the required guidelines for this Historic District.

Jon Bickford said that if the citizens had any feedback they would have stated something. Mayor Jones said that he did not think that anyone had said anything.

John Champagne moved to approve the Demolition/Removal Permit for 304 John A. Butler Street to remove a building from the City of Montgomery as submitted by Joe Shockley. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

13. Consideration and possible action regarding a Demolition/Moving Permit for 21000 Eva Street to remove the building from the City of Montgomery as submitted by Sonja Spottswood.

Mr. Yates said that this was the tan building that sits next to the Ruthie Grace building, which is across the street from Brookshire Bros. fuel station. Mr. Yates said that the building is being moved in anticipation of another building being replaced on the site. Mr. Yates said that no one has applied for the permit for the new building. Mr. Yates said that Ms. Spottswood intends on moving the building to another location outside the City and to smooth out the property.

Jon Bickford asked if the building had any historical significance that they are aware of. Mr. Yates said that there are no issues. Mayor Jones asked if the owner plans on putting another building in place of the one being removed. Mr. Yates said that he understands that a donut shop might go into that location.

John Champagne moved to approve a Demolition/Moving Permit for 21000 Eva Street to remove the building from the City of Montgomery as submitted by Sonja Spottswood. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

14. Consideration and possible action regarding approval of Hills of Town Creek Section 3 construction plans, conditional upon final comments being addressed.

Mr. Roznovsky advised that a majority of the comments have been addressed, with the only thing outstanding was regarding the landscaping and tree ordinance, so they are recommending conditional approval subject to the final comments being addressed. Mr.

Roznovsky said that as a reminder, this property is going through the alternate process, with the final plat coming after construction is substantially completed.

Jon Bickford asked for clarification of the conditional approval. Mr. Roznovsky said that the conditional approval is the final comments being addressed and those final comments are in regards to the trees.

Jon Bickford moved to accept the construction plans for the Hills of Town Creek, Section 3, as presented with the conditional approval. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

15. Presentation of Utility and Economic Feasibility Study for the Peter Hill 5.7-Acre Commercial Tract.

Mr. Roznovsky advised that City Council had just received a copy of this report, so he knew that no one has had a chance to review the information. Mr. Roznovsky stated that he would review the highlights of the study, and then City Council can look over the report and ask questions at the next meeting.

Mr. Roznovsky advised that this tract is located on the eastern portion of the City, and is located partially within the City of Montgomery ETJ and partially within the City of Conroe ETJ, which is just south of the Stewart Creek and SH 105 intersection, next to KOA Campgrounds. Mr. Roznovsky stated that, with the consideration of this property receiving service, more than likely, Conroe will allow the City of Montgomery to serve the portion of the tract that is in Conroe's ETJ until the point that the City of Conroe has utilities and they are able to serve the property. Mr. Roznovsky said that they are a long way from Conroe having utilities at that location, but historically they will not exclude properties from their ETJ and allow them to be annexed. Jon Bickford asked if they should move forward and ask the City of Conroe anyway. Mr. Roznovsky said that they have been trying to contact them to have a discussion regarding annexation. Mr. Roznovsky said that they will continue to pursue that information. Mr. Roznovsky said that the assumptions regarding sales tax and property tax and everything else is that they are not annexing the

property into the City. Mr. Roznovsky stated that there is about 3½ acres within the City of Montgomery and 2½ acres in Conroe's ETJ. Mr. Roznovsky advised that this would be a commercial development with no set plans, except for some fast food restaurants, a tire shop and a gym.

Mr. Roznovsky said that on the water side of the development they are requesting 4,000 gallons of water a day, which is pretty minor. Mr. Roznovsky said that the City has committed all of its water capacity, assuming that everything fully builds out as planned in the City, such as every single family home, strip center and pad site everywhere that is fully developed. Mr. Roznovsky said that there are updated water projection sheets, as the appendix in the report shows that the City is not expected to have the current flows that exceed demand or what the City can produce until the year 2021 or 2022, and beyond 2023.

Mr. Roznovsky said one other thing that City Council should also note is the City is in the process, with the Texas Water Development Board Funds, to add additional capacity to the Water System and production capacity, so the demand and production capacity of 600,000 gallons per day will be extended to approximately 730,000 gallons per day.

Mr. Roznovsky said that regarding water service, there is an existing 12-inch line on the opposite side of the street that would have to be extended across from Pizza Shack to this development. Mr. Roznovsky said that sewer service would be the same story. Mr. Roznovsky said that if you add everything up to the ultimate buildout based on conservative projections, the City has committed all the capacity.

Mayor Jones asked about the sewer service to that site. Mr. Roznovsky said that sewer service is one of two options. Mr. Roznovsky said that the first option and keeper of the two options, is extending across SH 105. Mr. Roznovsky said that one thing that they also looked at was extending a line from FM 2854, in front of the future, potential HEB property, but the cost for that is much more and there is a potential for the developer to receive some pro rata reimbursement as HEB develops, but the timing of that is questionable since there are no immediate plans. Mr. Roznovsky said that it is up to the developer on how he wants to proceed. Mayor Jones said that was a pretty long run. Mr.

Roznovsky said that it was 1,400 feet and it would need to be a 10 inch line. Mr. Roznovsky said the estimated cost that they put together for Option B is \$350,000-\$360,000, and for Option A is \$160,000. Mr. Roznovsky said that there would be not be a need for a force main, it would all be by gravity either to Pizza Shack or FM 2854 and then would go to Lift Station 1, which they are also in the process of relocating for the Montgomery Shoppes Project. Mr. Roznovsky said that neither of the options would require an additional lift station, they would go to Lift Station 1 by gravity.

Mr. Roznovsky said that there is a summary of the estimated costs, which shows Option A at \$169,000 for water and sewer that will cross SH 105. Mr. Roznovsky said that the water and sewer impact fee based on the projections of the development, at 50% percent, since only half would be located within the City, would be approximately \$46,000 - \$47,000 plus the cost for extending the sewer line. Mayor Jones asked if they could ask that if the developer builds commercial or retail that they put all the cash registers on the Montgomery side of the line. Mr. Roznovsky said that they could have them put all the parking on the Conroe side of the line.

Mr. Roznovsky said that they have included the cost estimates, findings, site plan and the updated water and sewer projections in the study. Mr. Roznovsky said that if there are any questions he will be glad to answer them. Mr. Roznovsky said that City Council did not have to accept the study, and said that they are not approving development or construction plans; this is just to accept the report saying that they understand and are willing to let the developer proceed with the process and take a look at this and let him know if Council has any questions. Mayor Jones asked to confirm that the developer paid for this study. Mr. Roznovsky said that was correct.

Dave McCorquodale said that he was good with the study and asked if they needed to accept the report. Mayor Jones said that they did not have to accept the report.

16. Cedar Brake Financial Report by City Administrator.

Mr. Yates presented the information to City Council stating that this is a report regarding the Patrons of Cedar Brake Park financial records pertaining to the operation of leasing the pavilion at the park and other relevant financial matters.

Mr. Yates stated that he had met with Mrs. Sonya Clover in early October and reviewed the bank statements for the Patrons account held with Amegy Bank. Mr. Yates advised that the beginning balance in January 2014 was \$10,632.97 and the current balance as of September 2017 bank statement was \$7,383.54. Mr. Yates said that in that period of time there was \$30,190.34 in revenue and expenses were \$32,669.28. Mr. Yates said that because the copies of the bank statements and the checks that were attached told what all the expenditures were for. Mr. Yates said that he was able to determine the amount of the revenue based upon the rental of the pavilion and several donations that were received. Mr. Yates said that each of the monthly statements' revenues minus expenditures carried forward correctly.

Mr. Yates said that there were two particularly large amounts of revenue and expenses noted. Mr. Yates noted that in May of 2014 the Patrons had a \$10,396 revenue month that was due to a donation effort for the statue of Charles B. Stewart in the park. Mr. Yates also advised that in December 2014 there was an \$11,560 expense, which included a payment in the amount of \$11,500 to Lynn Peverill, who was the producer of the statue of Mr. Stewart.

Mr. Yates advised that Mrs. Clover had told him that the funds received for the pavilion rental and any donations are for bricks or for the construction and placement of the statues planned for Cedar Brake Park. Mr. Yates said that Mrs. Clover also said that she and her husband are the only members of the Patrons group at this time. Mr. Yates said that Mrs. Clover also expressed to him her past involvement with the park, including the original placement of the park and her current interest.

Mr. Yates said that in the packet he had included the 2017 bank statements, but advised that the 2014-2016 statements were also available if necessary.

Mr. Yates said that the information included a listing of the people that have recently purchased bricks. Mr. Yates said that Mrs. Clover plans on returning the money to the people who have purchased bricks because she was waiting on getting enough quantity to get a good price on the purchase of the bricks, but now the brick maker has gone out of business and she has not been able to find anyone else that can make the bricks affordable. Mr. Yates said that it was the intention of Mrs. Clover to return the monies to the people that purchased the bricks within the next month.

Mr. Yates said that Mrs. Clover was not sure if the 501(c)(3) IRS non-profit designation for the Patrons was still in effect or not, which might be of interest to potential large donors, but was not relevant for pavilion renters.

Mr. Yates said that he realized the question has been raised regarding the management of the park as affected by the Patrons group. Mr. Yates said that the placement of the improvements in the park is happening as decided by him and/or the City Council, while he does ask Mrs. Clover for her opinion about the improvements. Mr. Yates said that regarding the pavilion rental, the revenue per year would just be about the cost of additional administrative overhead brought to the City because of the rental, so it appears to be a wash. Mr. Yates said that the question is should revenue at the park be managed by the City as a rule, but not so much of an exception to cause a disruption to something that is working now.

John Champagne asked the City Attorney, Mr. Larry Foerster, if he saw anything in this relationship that would be problematic to the City in terms of what is appropriate management of City owned assets. John Champagne mentioned the question regarding the 501(c)(3) status. Mr. Foerster said that the status of the 501(c)(3) would be easy to find out, and said that you do not lose your status without being notified. John Champagne said that assuming that the status is not active, that would be a problem would it not. Mr. Foerster said that it would moving forward with donations. John Champagne said that to his first question, there is no legal issues that Mr. Foerster could see in the current configuration in the way the park is being managed. Mr. Foerster said that the City is responsible for the City Park, and the City and City Council is ultimately responsible for

the management and any donations. Mr. Foerster said that he is not familiar with what has happened in the past, obviously this is an update that they probably have not had for quite some time, or a few years. Mr. Foerster said that it would be the responsibility of City Council to make sure that the funds that are collected are properly accounted. Jon Bickford asked if that statement would be true of all parks. Mr. Foerster said certainly, Memory Park and Fernland. John Champagne asked how the revenue is derived from those two parks being handled. Jon Bickford, asked how they were being monitored. Mr. Yates said that the way they have been monitored is that he looks at the statements.

John Champagne asked about all the parks, including Fernland and Memory Park. Mr. Yates said that the revenues are entered through the front till at City Hall, and if there is a donation at Fernland Park, those monies stay with Fernland Park, Inc. Mr. Yates said if there is a specific rental of that park, the City gets the funds from that rental. Mr. Yates advised that there is no revenue from Memory Park.

Jon Bickford thanked Mr. and Mrs. Clover for volunteering to manage Cedar Brake Park, and said that was very helpful to the City. Jon Bickford said that as long as they are okay legally, and said that he was not speaking about anyone here, but it still concerned him that they are having individual citizens managing the park. Mr. Yates said that he would still do the Memorandum of Understanding that was discussed several months ago, but was not completed. Mr. Yates said that the Memorandum of Understanding needs to be completed, even if they stay with the same arrangement, so there is something written down as to what happens to the funds and how everything is managed. Mr. Foerster said that he could give an example of what the City of Conroe does, because he is on the Friends of the Flag Foundation, which is a 501(c)(3) organization, created about the same time as the Lone Star Flag Park was constructed. Mr. Foerster said that as a 501(c)(3), the City of Conroe has an arrangement with the Friends of the Flag Foundation, and while the City maintains the park, making sure that the flowers are planted and any damage that might be done is repaired, the promotion of the park and the activities in the park are done through the Friends of the Flag Foundation. Mr. Foerster said that he did not know if they do an annual update to the City of Conroe, they would if requested, but their records are there and the records are audited by a CPA every year, as a financial review at the end of the year. Mr.

Foerster said that he would assume that is what they have here, where the City owns the park but the 501(c)(3) organization is actually promoting the park, trying to encourage donations and so forth.

Mayor Jones said that he thinks that they need to get a handle on the 501(c)(3) status. Jon Bickford said that they need to have a consistent process for reviewing and evaluating for all parks. Jon Bickford said that where they have efforts like this going on at Cedar Brake Park, Fernland and Memorial Park, they need some kind of consistent briefing. John Champagne said that whatever they are doing in one park, they should be doing in all parks. Jon Bickford said that was what he meant, whatever they do they need to be consistent. Mr. Foerster said that he recalled about a year ago this City Council asked, for example, the Fernland Historical Association to do a quarterly report. Jon Bickford said that was the last report that he has seen. Mayor Jones said that has been a while. John Champagne asked if that was on the City's calendar. Mr. Yates said that it can be. Jon Bickford said that it is not just the parks, the City owes it to the citizens. John Champagne said that the City Council has a fiduciary responsibility. Jon Bickford said that people are collecting money based on activities that are going on at the City parks, so they need to stay on top of that to make sure that somebody does not walk up to them and say something about what was purchased without their knowledge. Mr. Yates said that he could do the same thing with the other parks, as he did with the Cedar Brake books, by meeting with their accountant and go through the bank statements and report back to City Council. Jon Bickford said that he thought it would be more exciting to have somebody from each of the parks come in and speak for 15 minutes describing what they are doing. John Champagne said that he appreciates the Clovers being involved with Cedar Brake Park, because, if they had more community involvement in these type of things everything would work better. John Champagne said that he felt that the entire City Council appreciates Mr. and Mrs. Clovers' work. John Champagne said that what he was trying to convey to City staff is they need a consistent way of transparency and accountability, which is the right thing to do. John Champagne said that it was no slight on anybody else or any involvement, be it the Rotary or whatever, it is just the right thing to do. John Champagne said that if there is any way they can encourage the Clovers further to stay involved, he would do it because it is most appreciated. John Champagne said that this is not to say that what they

have done in the past and what they hope they do in the future is in any way off of what it should be, it is to incorporate the right way to do things in terms of accountability. Jon Bickford said that they also have to be careful not to place any hardship on the volunteers. Jon Bickford said that they need to put a plan in place regarding the parks. Mr. Yates said that he would put together a Memorandum of Understanding for each of the parks. John Champagne said that the interaction with these groups might be a good thing.

17. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky said that they received notification late last Friday afternoon that the City had received the Army Corp of Engineers Permit, and they received the actual permit today. Mr. Roznovsky said that the Corp of Engineers part is complete, and the TXCDBG-DR funds with the grant that the City is working on, that environmental clearance has been approved and is complete. Mr. Roznovsky said that the project is currently advertising for bids and they will accept bids on November 2, 2017 and will present the bids to City Council at the November 14, 2017 Council Meeting.

Mr. Roznovsky said that the outstanding item is FEMA. Mr. Roznovsky said that the City has provided comments to their final draft of the project worksheet, there were some comments that the City previously had that were not sufficiently addressed. Mr. Roznovsky said that FEMA had left some holes, and since they use the worksheet to determine what they pay, they wanted to make sure that information was as complete as possible. Mr. Roznovsky said that they have not received a response from FEMA and they will continue to follow up every few days, and Congressman Brady's office has been copied and is aware of the lack of communication. Mr. Roznovsky said that they are continuing to push to get that project worksheet, but everything else is moving forward.

John Champagne asked what TXCDBG-DR means. Mr. Roznovsky advised that it is the Texas Community Development Block Grant Disaster Recovery Grant, which is a \$350,000 grant to the City to pay for the portion of the local match that the City has.

Mr. Yate reported that the issue here was the plan cost of the bridge was \$1.8 million, and it places \$1,350,000 to be paid by FEMA, with \$300,000 from the CDBG-DR Grant, leaving \$150,000 for City coverage. Mr. Yates said that they had a discussion with the General Land Office (GLO) Administrator from Grantworks on Tuesday of last week. Mr. Yates said that, at that time, the Administrator from Grantworks said that he did not think that the City would be able to do all the prep work, in advance, necessary for the GLO Grant because he said that the GLO Grant would not be ready until April or May of next year. Mr. Yates said that he had refused to take that answer from the Administrator, so he sort of re-explained that they thought the FEMA share of the CDBG-DR grant was going to be enough to cover the City's full share. Mr. Yates said that he guessed they did not make it clear enough during their conversation that they were going to be \$150,000 short, although he thought that they did. Mr. Yates said that he called the Administrator back and, because of the CDBG-DR environmentals that they just went through, he is checking if those will be all right for the GLO, because that is also CDBG money. Mr. Yates said that while he does not have an answer for that, he is hopeful that they will be able to go back to the original plan, which was using the \$150,000 from the GLO grant to cover the cost. Jon Bickford said that he felt the City had to have a contingency plan if this does not get approved. Mr. Yates said that he assumed that the City Council would not want to wait to start the project. Mr. Yates said that they are talking about starting work on December 1, 2017, instead of May or June. Mr. Yates said that he thought they could take the \$170,000 and move forward. John Champagne asked if City Council needed to vote on this information at this time. Mr. Yates said they did not, and said that the time that City Council would need to vote would be when they accept the bids on November 14, 2017. Mr. Yates said that they had received excellent news and it was an excellent job by Grantworks and our City Engineers to get the Army Corp of Engineers Permit and to get the environmentals through. Mr. Yates said that if City Council remembered, last month the report was that it was going to take about two months for the environmentals for the CDBG grant. Mr. Yates said that he did not know how they did it, but the environmentals were approved in two weeks instead of two months.

Mayor Jones asked Mr. Foerster to comment on his recent email about loans and letters of credit, if this is an appropriate time. Mr. Foerster said that it would fall under the Bridge

Report. Mr. Foerster said that since he had sent the email to the Mayor and Mr. Yates this afternoon, Mr. Yates has had another conversation with Amegy Bank representative. Mr. Yates advised that Amegy Bank was the low interest rate quote and so they started working with them, but Amegy Bank decided that they could not do the loan, so First Financial is the next bank in line so they will work with them and they will have the documents at the November 14, 2017 City Council Meeting. Mr. Foerster said that First Financial Bank recently did a loan with the City of Panorama Village, and he had worked with their Attorney, James Knez, and everything went smoothly. Mr. Foerster said that he had to make some modifications to the document that he felt better about, so he would assume that they will use the same forms for us that they used for the City of Panorama. Mr. Foerster said that after talking with the Attorney for Amegy Bank this afternoon, he then spoke to a Bond Attorney because Amegy wanted a Bond Attorney involved and he indicated that he did not see a problem with the City picking which ever bank they wanted, they did not necessarily have to go with the lowest bid anyway. Mr. Foerster said that First Financial Bank can offer the City this loan under the terms that they have offered, he saw no problem with going with them, without a Bond Attorney. Mr. Foerster said that adding a Bond Attorney only increases the City's cost.

EXECUTIVE SESSION:

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

COUNCIL INQUIRY:

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

ADJOURN

Jon Bickford moved to adjourn the meeting at 7:21 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

Submitted by: *Susan Hensley* Date Approved: 11/14/17
Susan Hensley, City Secretary

Kirk Jones
Mayor Kirk Jones

