

**MINUTES OF REGULAR MEETING**

**July 25, 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  
                  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

**INVOCATION**

John Champagne gave the 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.

Mr. John Tierney and Mr. Mace Puckett with Boy Scout Troop 491, and Mr. Kendal with Boy Scout Troop 1293, were present as part of their requirement to earn their Community Communication Badge.

Mr. Greg Parker, Candidate for Precinct 2 County Commissioner, introduced himself as a candidate for upcoming election. Mr. Parker spoke of the challenges that face Montgomery County, such as mobility, taxes and spending, roads and conflict of interest issues. Mr. Parker detailed his background and asked for the support in the upcoming election.

Mr. Lonnie Clover – asked where to go to get minutes of both this meeting and the Planning and Zoning Commission, because the last minutes on Planning and Zoning were March 27, 2017, and the last minutes from the City Council Meeting was June 27, 2017. Mr. Clover said that he knew that these minutes were approved at the next meeting and he did not understand why they could not be put out on the internet. Mr. Clover asked where he would go to get the minutes, does he come to City Hall to get a hard copy, and asked what he should do. Mr. Clover asked about drawings for projects and proposed projects, and whether they were available to the public and how would he go about looking at those just to see what is going on in the City because you can't always tell from what is in the minutes exactly what is going on,, such as a report on zoning amendments. Mr. Clover said that the minutes are pretty nebulous and you do not know what they are talking about. Mayor Jones asked City Staff to respond to the question.

City Secretary, Susan Hensley, advised that the minutes from the last meeting on June 27, 2017 are posted on the web site and tonight City Council is approving the July 11, 2017 Meeting minutes. Rebecca Huss confirmed that Ms. Hensley was stating that the minutes are only posted after they have been approved by City Council or the Commission to avoid having something posted that was incorrect. Ms. Hensley said that was correct. Ms. Hensley advised that the Planning and Zoning Commission minutes had a problem so they had to be rescanned in and reposted to the web site. Mr. Clover said that he had checked the web page and the July 11, 2017 Meeting minutes were not on the web site. Ms. Hensley advised that the July 11, 2017 minutes were being approved tonight and then they would be posted. Mayor Jones asked Mr. Clover to come by City Hall at his leisure and speak to the City Secretary she will get the information you need. Ms. Hensley said that she would be more than glad to assist Mr. Clover.

**CONSENT AGENDA:**

1. Matters related to the approval of minutes for the July 11, 2017, Regular Meeting.

2. Consideration and possible action regarding acceptance of excess collections for 2016 Debt Service and Certification for Debt Service Collection Rate for 2017/2018.
3. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AFFIRMING ITS ANNUAL REVIEW OF THE POLICY FOR INVESTMENT OF MUNICIPAL FUNDS AND THE INVESTMENT STRATEGIES CONTAINED THEREIN HAS BEEN CONDUCTED AS REQUIRED BY SECTION 2256.005(e) OF THE TEXAS GOVERNMENT CODE.

Dave McCorquodale moved to approve the Consent Agenda (Items 1 – 3) as presented. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

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

4. Consideration and possible action on Department Reports.
  - A. Administrator's Report – Mr. Yates presented his report to City Council. Mr. Yates said that one item that was not included in his report, was the listing of the duties for the Assistant to the City Administrator position. Mr. Yates advised that currently this is a part time position and he is proposing to move it to full time, partially because the person that is filling the position is only working 5-6 hours per week. Mr. Yates said that he would like to get back to about 20 hours per week for him, and then 20 hours of additional help for City staff, particularly the front office with the billing clerk. Mr. Yates said that some of the duties that he has in mind for this position is the audit and budget preparation, invoice gathering, grant coordination, payables, sales tax rebate monitoring, coordinating office supplies, assist the City Secretary as needed, Gantt Charts on all projects so that City Council will know the status and schedule. John Champagne said that a few months back he had requested a timeline for the bridge project, and asked if he could get information based on the current information. Mr. Yates said that he would like to hire this position, noting that there are available funds in the current budget. Mr. Yates said that he was proposing to hire this person unless told to do otherwise. Rebecca Huss said that as long as Mr. Yates is actually delegating valuable work to this person, then she had no problem. John Champagne said that

according to the list of duties, he thought that Mr. Yates would be delegating quite a bit. Mayor Jones said that a lot of things that are listed are not being done at this time.

Dave McCorquodale asked about the communication with TxDOT regarding the FM 149 Project, and whether they have advised a better way of communicating with the residents and shop owners. Mr. Yates said that last week they received an email from TxDOT stating that they wanted to have a meeting at their office, and Mr. Yates suggested that was not the way to conduct a public meeting and said they needed to meet here in Montgomery. Mr. Yates said that he has not heard back from TxDOT. Mr. Yates said that they were still trying to work with TxDOT on trying to improve their planning coordination with the property owners. Mayor Jones said that there were a lot of property owners that have a lot of questions. Mr. Roznovsky, City Engineer, said that TxDOT did respond saying that they did agree to have a meeting out in Montgomery, but it has not been scheduled yet, but the meeting will be in the City in the evening so that the property owners can attend the meeting after work. Rebecca Huss said that in the meantime they are just continuing to repave and resurface the southern part and northern part, with no actual intention of alleviating any traffic issues that Montgomery has been experiencing. Mr. Roznovsky said that was correct.

- B. Public Works Report – Mr. Micha Muckleroy presented his report to City Council. Mr. Muckleroy advised that they had heavy trash weekend, painted speed humps and stop bars throughout the City, verified all idle water accounts were off and locked and assisted two customers with irrigation programming. Mr. Muckleroy advised that employee Ryan Thomas had obtained his Class D Water License last month. Mayor Jones asked what that meant. Mr. Muckleroy advised that it is a license that they are required to have in order to work on water mains and install water meters. Mr. Muckleroy said that they replaced the gas stove at the Community Center with an electric stove. They repaired a broken chlorine line at Well #2. Mr. Muckleroy said that they also started weekly barricade delivery for the Thursday Farmer's Market and they continue the weekly leak notifications to customers from the Beacon web site. Mr. Muckleroy advised that they had 13 water taps, 12 sewer taps, 9 water leaks and 0 sewer stoppages for the month. Mr. Muckleroy said that they replaced plants around the fountain at Cedar Brake Park, replaced both flags at Homecoming Park, and

installed an additional lock on the breaker box at Homecoming Park. The docents at Fernland reported 499 visitors for the month and they provided 45 tours.

Rebecca Huss asked for an update on the Entergy project from yesterday, and whether Well #2 was back on. Mr. Muckleroy advised that Entergy installed a second lead to the Well to hopefully cure the power balance issue, and when one of the wells was turned back on it immediately tripped. Rebecca Huss said that she was looking at Mr. Williams' report and there was a stunning amount of activity or lack thereof related to Well #2. Mr. Muckleroy said that every time the Well comes on it kicks back off. Mayor Jones said that he did not know much about electricity, but isn't there something like a voltage regulator that they can install. Mr. Roznovsky said that what Entergy was proposing, as their solution, to run a second line, essentially doubling the amount of flow that can go to the plant, but that did not solve the issue. Mr. Muckleroy said that the second line did not cost the City a dime to let them try. John Champagne asked if they still had issues on Well #4. Mr. Muckleroy said that was correct.

John Champagne asked if the City has any legal recourse since we have no options, and asked if a case could be made that this municipality is at risk because we can't get a reliable source of energy for these water wells. Mr. Foerster said that he supposed that a case could be made, but is this a need to the community or is it a broader problem? John Champagne said that he did not know, but he knows that they have no options, they have to settle for a mediocre service that puts our community in a position that they are paying not to be in, which to him, is unacceptable. John Champagne asked what incentive Entergy has to do anything, other than what they have done, because there is no competitive influence. Mr. Foerster asked if there was a consultant that could give them an opinion as to what the problem is so that they can reach out to Entergy, maybe with a formal resolution, even by City Council stating here is the problem and stating that we want it fixed. John Champagne advised Mr. Foerster to tell him what was appropriate, because so far it has not worked. Mr. Roznovsky said that Entergy first attempted to blame the power problem as a City issue, and they advised Entergy that it was not a City issue and nothing had been changed to the facilities, this is a supply issue. John Champagne asked if all this was a verbal exchange and nothing has been done in writing. Mr. Roznovsky said that was correct. Mr. Foerster said that he did not mind writing a letter, but at one time Entergy had a

representative that would work with the cities and he does not know who that person is now, but that used to be the person that would handle this information and attend the City Council Meetings. John Champagne said that once again the City is putting up with this and it has become the status quo. Rebecca Huss advised Mr. Foerster that if he is writing a letter, if Well #2 and Well #4 have issues, Well #3 is not capable of supplying the City with enough water, so this is kind of dire. Mr. Foerster asked Mr. Roznovsky to prepare him a report he will contact Entergy personally. Mr. Muckleroy advised that Mr. Roznovsky was in the process of preparing a letter to the Public Utility Commission and Entergy jumped on it at the last minute and wanted to try this possible solution, which did not work. Mr. Muckleroy said that they talked about getting the letter done this morning at their weekly meeting. Rebecca Huss said that for security purposes, the generators do work and can run the equipment if they need them to. Mr. Muckleroy said that the generator at Well #3 will only run Well #3 and it does not power the entire plant. Mr. Muckleroy said that the generator at Well #2 will power the entire plant. John Champagne said that to Rebecca Huss' point, they are in good shape. Mr. Shackelford said, to clarify, when they say Well #3, that is just Well #3, and remember that Well #3 and #4 are both at the same water plant. Mr. Muckleroy said that it will run Well #3 and the distribution pumps, and will not run Well #4 or the cooling tower. Rebecca Huss asked whether Wells #2 and #3 were capable of supplying the City needs. Mr. Shackelford said that would only work if you are in drought condition. Mr. Shackelford said that they could provide water, but they would have to restrict usage. Rebecca Huss said that there is no telling after Kroger comes on line. John Champagne asked if another generator has been considered and in the new budget. Mr. Shackelford said that it was in the project that is being funded by the GLO for Water Plant #3 Improvements. Mr. Roznovsky said that the earliest they could expect funds would be October. Mayor Jones asked if they needed generators at any of the lift stations. Mr. Roznovsky said that also on that list is looking at a generator for the sewer plant, because there currently is none there, so with the relocation of the lift station, they can combine and get one large generator to run the entire facility instead of two separate generators, and is also on the list for the GLO funds. John Champagne asked if they had a plan. Mr. Shackelford said that they have a plan regarding Entergy. Mr. Shackelford said that yes, they would get the information together and provide Mr. Foerster sufficient information for him to write a letter to

Entergy. John Champagne asked if all the information would be provided to Mr. Foerster next week. Mr. Roznovsky said that he has already been working on the language and he will have the information to Mr. Foerster tomorrow. Mayor Jones asked if there was a comment that they could include that not only talks about the inconvenience, but our costs incurred every time this problem occurs. John Champagne said that actually it is an inconvenience, but his concern is more than an inconvenience, it is a necessity. Mayor Jones said it is also the length of time that this problem has been occurring, with no resolution, and in his mind not a lot of effort for resolution. John Champagne said that if this was someone's private well on their property and this situation was going on, he would bet that 99 percent of the people out there would not stand for this kind of service, so why is the City dealing with this inadequate response. Mr. Foerster said that he feels that this is an internal staff issue that they can deal with, without a formal resolution by City Council.

- C. Police Department Report – Chief James Napolitano presented his report to City Council. Chief Napolitano said that he wanted to bring up a few things, during June they had some good training for the officers, Hernandez, Thompson, Carswell and Lt. Belmares. They attended different types of training that will increase their knowledge and ability to get their job done. John Champagne asked whether they had been making a lot of trips to Conroe. Chief Napolitano said that they had and they had 43 misdemeanor arrests and 5 felony arrests. Chief Napolitano advised that every time they make a misdemeanor arrest, that person has to be transported to Conroe and takes them out of service from 3-5 hours. John Champagne asked if there was ever a time when both officers are in Conroe. Chief Napolitano said yes. John Champagne said that would leave the supervisor here. Chief Napolitano said that sometimes it leaves no one here. John Champagne asked why it would leave no one there. Chief Napolitano said that the supervisor might not be on duty at that particular time. Chief Napolitano said that when they are gone, Montgomery County will pick up the call for them and vice versa, which is how they work to cover calls. Chief Napolitano said that they will pick up suspicious persons, welfare checks, etc. Chief Napolitano said that welfare checks are one of the most dangerous calls, because you do not know what you are going to be dealing with. Chief Napolitano said that he would love to see the Sheriff's Department put a little place out here on the west side to help Magnolia, Montgomery and District 5 to house a prisoner. John Champagne asked the Chief, in

his estimation, has the activity in regards to his responsibilities as far as this department increased. Chief Napolitano said that it has, and said that he pulled up a Spillman report today, regarding the two apartment complexes only, they have had 305 calls to the apartment complexes from late 2015 through current. The calls for this year are already over what they had last year, just for the two apartment complexes. Mayor Jones asked what the issues at those locations were. Chief Napolitano said that they range from trespassing in progress, suspicious vehicle, narcotics and medical calls. Chief Napolitano said that they have asked that when EMS is going to a medical call, then the Police Department will also respond, because sometimes they can turn out to be something more that needs the police. Chief Napolitano said that they have put over 1,000 extra people in the City between the two apartment complexes and they have issues. Rebecca Huss said that it is not really all that different, because she looked up the numbers from 2014 and they had about 100-175 calls per month, and you are reporting 116 calls for service last month. Chief Napolitano said that Rebecca Huss would have to understand that you are saying that it is the same as it was in 2014. Rebecca Huss said that she was saying that it is not an outlier compared to 2014, if you look at the numbers. Chief Napolitano said that they still have calls for service. Rebecca Huss said exactly, and she was saying in 2014 they had between 100-175 calls per month, and this month you are reporting 116, which is not an outlier if you are looking at the data from 2014. Chief Napolitano asked if she wanted one officer showing up or two. Rebecca Huss said that she was talking about the exact same thing, calls for service compared to two years ago, so it is the same issue. Chief Napolitano said that this is summertime and our slowest month. Rebecca Huss said that was why she gave a range of what they saw in 2014 as well. John Champagne asked about Lt. Belmares Dark Web Investigations. Chief Napolitano said that they have a lot of problems with fraud lately, they have numerous calls for service about people getting their credit card stolen and resold on the Dark Web. Chief Napolitano said that he sent Lt. Belmares for the training to help investigations in the City.

- D. Court Department Report – Rebecca Lehn-Kendall presented her report to City Council. Mrs. Kendall advised that this past month Deputy Court Clerk Kimberly Duckett took her Level One Certification test and all of the Court staff attended training.



- E. Utility/Development Report – Mr. Yates presented the report to City Council advising that they collected \$158,059 in utilities, \$23,813 for 43 permits and \$1,355 for rental of the Community Center. Mr. Yates advised that they have 588 active water accounts. Mr. Yates noted that on the City account consumption, the Buffalo Springs sewer and water consumption was down to 2,000 gallons per month from 120,000 gallons. Rebecca Huss said that consumption was closer to 200,000 gallons for a while. Mayor Jones said that was great. Rebecca Huss said that Cedar Brake Park was spelled incorrectly on the report.
- F. Water Report – Mr. Mike Williams, with Gulf Utilities, presented his report to City Council. Mr. Williams reviewed the district alerts, stating that 5 out of the 8 alerts were due to power imbalances. Mr. Williams said that one was for a power outage, which Entergy was on site repairing the issue when the operator arrived. The other two, included a leak reported at 661 Old Plantersville Road where the water was coming under the fence. The technician reported that the water was coming from 27 Power Circle and flowing downhill in the resident's yard. Rebecca Huss asked if that was from the trailer park. Mr. Williams said that it was from the trailer park. Rebecca Huss said the City is still responsible for the meters in the trailer park. Mr. Yates said that was correct. Mr. Williams advised that the leak was on the homeowner's side of the meter. Mr. Williams said that the other alert was Lift Station #3 and the operator reported high run time, the pump was pulled and cleaned and turned back to service. Mr. Williams advised that on the effluent report, the flow for the month of May was 4,591,000 gallons, daily peak flow was 329,000 gallons on May 23, 2017, which is 82% percent of the permitted value. The average daily flow was 130,000 gallons for 32% percent of the permitted value. Mr. Williams advised that the chart on page 5 of the report shows that the totalizer is working correctly, and the total monthly average was 98.02%. Mr. Williams advised that there were no excursions during the month. Mr. Williams stated that the City's current permit expired June 1, 2017, which the City Engineers are currently working on. TCEQ is in the review process for the permit, so the City is covered.

Mr. Williams advised that John Champagne had asked to have the permitted values and the remaining permit amount for 2017 included in the report, which is shown on page 7 of the report. Mr. Williams advised that Wells #2 and #3 together are permitted

for 47.551 million gallons and they are currently 40.6% remaining and 80.1% of Well #4 remaining. Mr. Williams said that was mainly due to the incoming power and mechanical issues that they have been experiencing. John Champagne asked if Mr. Williams saw a problem there. Mr. Williams said that he did and he would get it resolved as quickly as possible. Mr. Williams said that as soon as they get the Entergy imbalance fixed, they can ramp up the work and make sure that they are looking at the permitted values. Mr. Williams said that the total production this month was 9.226 million gallons, and they have a total of 203,000 gallons for flushing, and they sold 9,105,000 gallons bringing them to a 101% percent accountability, which indicates that they sold more water than they pumped. Mr. Williams advised that for Well #3 and Well #4 the peak day was May 18, which is at the very beginning of the cycle, so they might have pumped some of that water with the associated billing cycle of last month. Mr. Williams said that he did not expect any issues and they should see the information even out. Mayor Jones asked about the multi-family and whether it was the two apartments combined. Mr. Williams said that was correct, and it did include their irrigation meters. Mayor Jones asked how hard it would be to get the volume for each of those categories. Mr. Williams said that it should not be too difficult and he would get that information. Mayor Jones said that he was interested in what the schools and apartments use, and it might be good for planning purposes. Mr. Williams said that he would get that information.

Mr. Williams advised that this month they had a 50% percent return to the WWTP from water sold through the meters. Mayor Jones said that there was such a wide range in the return percentages, from 15% to 102%, and asked what would be expected as normal or can they say there is not a normal due to weather or other circumstances. Mr. Williams said that they can see a range due to irrigation, because anything that was used to irrigate will not go to the sewer plant. Rebecca Huss asked Mr. Williams to remind them again that the totalizer was replaced. Mr. Williams said that prior to the totalizer being replaced, the figure on 11/18/16 showed a 15% percent return to the WWTP, and after the replacement of the totalizer the return was at 81%. Mayor Jones said that they could say beginning in 12/18/16, that would be the norm with whatever variation that brings, and they know that the low numbers were wrong. Mr. Williams said that the numbers before 12/18/16 he would not use those to come up with any

conclusions. Rebecca Huss said that she was still not sure, because at 102% with only 4 inches of rain seems to be a little off. Rebecca Huss said that it was still a mess. Mayor Jones said that they have come a long way. Rebecca Huss said that was true and they have more data than they had before. Mr. Williams said that was the reason that they put the accuracy chart in the report so that they can show how they are checking on the accuracy of the readings. Rebecca Huss asked if they had just calibrated the totalizer. Mr. Williams said that was correct, they calibrate twice a year.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky said that the Joint Mobility Study was presented at the Joint Council and Planning and Zoning Workshop Meeting on July 13, 2017, and since then they have met with Montgomery County Precinct 1, and they are working on scheduling the meeting with Precinct 2 to review the report. Mr. Roznovsky said that once they receive everyone's comments they will make the revised report. Mr. Roznovsky said that the City's permit was now in the hands of TCEQ, so there is nothing more for the City to do regarding the permit.

Mr. Roznovsky advised that the FEMA Flagship Boulevard Repair Project contractor has the contracts and expects to have them back this week, once they are signed they will be able to issue a Notice to Proceed. Mr. Roznovsky reported on the cleaning and televising project along FM 149, advising the contracts were received yesterday from the contractor, and they are doing a plan review and verifying the insurance, and then will be able to bring them to the City for execution and issuance of a Notice to Proceed.

Mr. Roznovsky reported on the General Land Office Disaster Relief funds, the documents have gone through approval from the County and now they are at the State for approval. Mr. Roznovsky said that the earliest that they have heard that the GLO funds would be made available for the City is October of this year. Mayor Jones asked about the list of projects that were presented in the beginning, and somebody, whether it was the County or whoever, said that it was a valid list. Mr. Roznovsky said that the first request was what the City would do with the funds, and the list of projects based on need. Mr. Roznovsky said the way that they based their distribution on the percent of low to moderate income households within the City and the amount of damage per

FEMA numbers that the City received. Mr. Roznovsky said that with the bridge and the high to low moderate income housing in the City, the City was ranked number two in poverty and number one in damage. Mayor Jones asked, when it comes time to distribute the funds, will it be done on an invoice basis or is there somebody that approves the project first. Mr. Roznovsky said that the County has told the State how they wanted to issue the funds, and then the State approves that distribution. Mr. Roznovsky said that they will then contact the municipalities and the cities will make an application directly to the State, with those projects, and then the State will approve it based on the list that the County gave them. Mayor Jones said that someone at the State will have to approve the project, and asked if they will have to approve the details of the project. Mr. Roznovsky said that they have been told that as long as the project falls within that category, and it meets the CDBG rules, which is low to moderate income households, that project will be approved. Mayor Jones said that they won't have to worry about the back and forth, government engineers, etc. Mr. Roznovsky said that this is a different system with disaster relief and not development, but you will still have to get approval of the contract documents, and have them release funds as invoices come in.

Mr. Roznovsky said that the TxDOT Meeting that was discussed earlier, TxDOT has agreed to conduct the meeting within the City limits, and during the evening hours so that the businesses and people can attend the meeting after work. Rebecca Huss asked what kind of person TxDOT would send to this meeting, would it be someone who legitimately has an authority to make changes to take the feedback or is it some intern. Mr. Roznovsky said that he did not know who they would be sending. Mr. Roznovsky said that they will have aerial drawings and drawings that they can pull up and put on a screen so that people can walk up and see the plans.

Mr. Roznovsky said that Buffalo Springs Public Water and Sewer construction is underway.

Mr. Roznovsky said that there was going to be a Change Order, which is going to take out some of the additional work. Mr. Roznovsky said that the contractor will close Flagship Boulevard on Wednesday after rush hour, have everything staged, tear out the

road and have it complete and back open on Monday. Mayor Jones asked if both lanes would be shut down. Mr. Shackelford said that the intersection would be closed completely. Mr. Roznovsky said that there were no damages in the contract, but the time frame was a stipulation in the contract. Mayor Jones said that it looks like it is more drying time than working time. Mr. Roznovsky said that was correct, and the contractor said that he had no issues with the amount of time to get the job done. Mr. Shackelford said that they were using a faster drying concrete mix instead of the usual type.

John Champagne asked to confirm that the police would coordinate and try to keep traffic moving as well as possible during this project. Mr. Yates said that was correct, and said that he has spoken to the Chief of Police regarding this project. Mayor Jones said that they would still allow traffic to go east bound. Mr. Roznovsky said that from the Brookshire Bros. driveway to SH 105, FM 149 will be closed, but the Brookshire Bros. driveway and apartment complex and everything going out to the east will be okay.

- H. Financial Report – Mr. Yates presented the report to City Council. Mr. Yates advised that they have a summary report because Ms. Branco was working on the budget. Mr. Yates reported the following balances: General Fund - \$1,167,000, MEDC - \$783,000, Utility Fund - \$531,756, and said that all the accounts have revenue over expenses this year. Mayor Jones said that they were not busting the budget and doing all right.

Rebecca Huss moved to accept the Departmental Reports as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

5. Consideration and possible action regarding scheduling a Public Hearing regarding an Alcohol Beverage Permit Application for the Cozy Grape Wine Bar and Bistro to change their existing Alcohol Beverage Permit to include mixed beverages as submitted by Tom Cronin.

Mr. Yates presented the information to City Council stating that the date that would need to be set for the Public Hearing would be August 22, 2017 at 6 p.m.

John Champagne moved to schedule the Public Hearing to be held on August 22, 2017 at 6 p.m. for consideration of the Alcohol Beverage Permit Application approval. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss asked owner, Tom Cronin, if there was any limitation on the density of alcohol beverage permits in one square mile. Mr. Cronin said there were not, basically what he is doing is applying to move the existing mixed beverage permit, so it is a change of location and the other would be up to TABC. Mayor Jones asked Mr. Cronin if this would prevent him from selling beer and wine out the back door. Mr. Cronin said that he was going to check on that information, because he was not sure, he did not think so. Mr. Cronin said that he would not have mixed beverages outside, but with the wine and beer, people could walk around the Historic District in the area designated by the City's map.

The motion carried unanimously. (3-0)

6. Consideration and possible action regarding an Engagement Letter with Belt, Harris Pechacek C.P.A. firm to prepare Fiscal Year, 2016-2017 Audit.

Mr. Yates reported that the procurement process was structured so that the principal factor of the selection of an independent auditor is the auditor's ability to perform a quality audit. Price was not the sole criteria for the recommendation of the Review Committee. Mr. Yates advised that the RFP was sent to approximately 10 firms, including the previous auditor.

Mr. Yates advised that there were three submittals received by the City, as follows:

Belt Harris Pechacek, who has strong local government experience and their references were excellent. The quote received was \$14,500 for 2017, \$14,754 for 2018, \$15,012 for 2019 and \$15,275 for 2020. The second submittal was from Weaver and Associates, who also had strong local government experience. The references were not checked. Mr. Yates advised that the quote received from Weaver and Associates was o\$27,000 for 2017, \$28,000 for 2018, \$29,000 for 2019 and \$29,975 for 2020.

The final submittal was from McConnell Jones who also has strong local government experience. Their references were not checked. Their quote was as follows: \$29,100 for 2017, \$29,100 for 2018, \$29,100 for 2019 and \$29,975 for 2020.

Mr. Yates advised that due to the opinion that Belt Harris Pechacek was qualified, the Review Committee, consisting of Rebecca Huss, T.J. Wilkerson, Susan Hensley and himself, with Cathy Branco sitting in, decided to interview them in person, and unless they were unsatisfactory then, due to the extreme cost difference, the Committee did not see a reason to interview the other two submittals.

Mr. Yates said that the Committee conducted the interview with Stephanie Harris on July 13, 2017. Ms. Harris spoke well and her knowledge of accounting and auditing was well received by the Committee. The group discussed the process of the audit, document preparation by staff and auditor timing of completion of the audit, the City possibly trying to obtain a Government Accounting Financial Reporting (GAFR) at some point, not required but a recognition of excellent financial management. The group learned from Ms. Harris that Laura Ham would be the firm's contact/principal auditor so they asked for a resume of Ms. Ham, which has been provided.

Mr. Yates said that the Committee solidly recommends the firm of Belt Harris Pechacek for Auditor of the City.

Mr. Yates said that the Engagement Letter calls for four years as a standard set of terms, which the City Attorney has reviewed and approved. Rebecca Huss said that the Committee spoke to the partner that came out and she suggested that, if the City was happy, one of the ways to get around having to do this every three to four years, was to switch partners or the professional that deals with us get away from having the issue of too close of a relationship with your Auditor. You do not necessarily have to switch companies all together. Rebecca Huss said that most importantly they have a plan for providing a list of everything that they will require, we upload that information to their firm and then when they do their onsite visit, they have a specific list of things and it seems that they are much more efficient.

John Champagne said that he is constantly amazed with the disparity of the pricing. Dave McCorquodale said that it is significant. Rebecca Huss said that the Committee asked and they advised that unless something comes up that the City does not provide the information or there is a significant gap in what we tell them and how they find it, they are very confident that their proposal is accurate. Mayor Jones said that sometimes people price themselves out of a job on purpose. John Champagne said he understood that.

Rebecca Huss moved to approve the Engagement Letter with the Belt, Harris Pechacek C.P.A. firm to prepare Fiscal Year, 2016-2017 and beyond Audit, and authorize the Mayor to sign the letter. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

7. Report regarding Buffalo Springs Bridge Repair.

Mr. Roznovsky advised that since the last City Council Meeting, they had met with FEMA on July 19, 2017, when they provided them with a 16-page cost estimate for the City to review to confirm that all of our items that are included in the scope of work are included. Mr. Roznovsky said that they had completed that review, and they had some follow up questions to FEMA regarding this information and also request the write up from the Corp Review. Mr. Roznovsky said that as of today, they have completed all of the documentation that they have prepared, and they are okay with the information and that all the items in the scope of work are within their write up and cost estimate.

Mr. Roznovsky said that additionally, the Corp information will be submitted tomorrow, and all of the documentation is complete and executed and will be submitted for Corp review and permitting. Mr. Roznovsky said that they have worked with Congressman Brady's office and he has met with the Colonel with the Corp of Engineers to discuss this project, and as soon as this information is submitted to the Corp they will have a file number for the Corp and they will provide that number to the City and Congressman Brady's office.

Mr. Roznovsky said that Mr. Yates has gotten all the surrounding property owners to sign "hold harmless agreements" to allow the temporary construction access for the piping to be completed. They have also received an agreement from Mr. LeFevre to grant a permanent easement on the southwest corner of the bridge to complete the repairs and to do permanent improvements in that location.



Mr. Roznovsky said that all those items are what FEMA required to complete their write up, so all that will be sent to FEMA tomorrow, and he will have one final call in the morning, with FEMA, to confirm that everything is complete. Mr. Roznovsky advised that by the end of this week FEMA will have everything completed and written up internally, and will submit it to the additional internal review, which include the State level, then to Washington D.C. and the Office of Legislative Affairs. They will be working with Congressman Brady's office to make sure that this process goes smoothly. John Champagne said that Congressman Brady has been a lot of help with this project. Mr. Roznovsky said that their estimate in time is 2 to 2 ½ weeks from the end of this week for that project to be completed for obligation funds. Mayor Jones asked if there was a TCEQ approval in there somewhere. Mr. Roznovsky said that all the environmental reviews and permits have been completed, they are checking on the FEMA sign.

John Champagne asked if the bid packages are prepared and ready to go. Mr. Roznovsky said that they are finalizing the information so that they can solicit bids, and once they know that the funding is there they can bid the project.

Rebecca Huss asked how far the timeline has been pushed back from the May meeting that they had at the Community Center. Mr. Roznovsky said that where they were at that time, with the scope of work that they were proposing, there has only been one change and that is instead of a solid concrete bottom they changed to rip rap. Mr. Roznovsky said that this whole time has been a delay. Mr. Yates said that he thought where they took 2 ½ weeks for being able to bid, that was about what the estimate was and he thought that it was late August. Mr. Roznovsky said that it is close. Mr. Roznovsky said that one thing that has changed with the multiple FEMA reviewer is that at the Community Meeting in August they needed Corp approval documents prior to them obligating funds, now they just need a receipt that the documents have been submitted to the Corp of Engineers, then they can complete their process, obligate the funds and the funds will be released once the Corp permit is in hand. Mr. Roznovsky said that will all fall pretty well within the timeline of bidding and getting the contracts ready. John Champagne asked if Mr. Roznovsky had delegated any of this work to his team. Mr. Roznovsky said that they have had multiple engineers working on this, along with Katherine Ferry, and it has been a team effort.

8. Report regarding Buffalo Springs Bridge Repair Financing.

Mr. Yates advised that they have been discussing this information for several months, but did not know the precise figure. Mr. Yates said that they know the FEMA estimate of the bridge total cost is \$1,856,555. Mr. Yates said that FEMA will also pay us based upon the actual contract, so this might be the estimate, but they can go into it thinking that what FEMA has advised would actually be the amount, but will actually be the contract amount after the bid. Mr. Yates advised that the difference between the FEMA 75% contribution to the total cost of the bridge of \$1,856,555, in the amount of \$1,392,416, which will leave \$464,138 for the local share.

Rebecca Huss said that she knew that the City had to pay the 25% percent, but she thought that FEMA would pay 100% of the mitigation. Mr. Yates said that at their last meeting that information was incorrect, that as far as they know, the same person that told them several times that FEMA would pay 100% percent for the mitigation, but they were told that it is 75% percent of the total project. Mr. Yates said that the \$1,856,555 is the total mitigation figure. Mr. Yates said that will leave the City with \$464,138 of the City's share to the match. Mr. Yates said that he thinks that money will partially come from the CDBG-Disaster Relief Grant of approximately \$280,000. Mr. Yates said that as far as he knows, no one else has applied for those funds and they already have the application ready, as long as they can get the FEMA estimate and worksheet, they will be first in line to get the \$280,000 grant. Mr. Yates said that the grant itself is for \$310,000-\$315,000, but the Grant Administrator gets part of that money.

Mr. Yates said that the General Land Office Grant, if awarded, can pay the City's share with or without the CDBG Grant. Mr. Yates said that another way that they could come up with the balance for the grant would be to use fund balance from the City's General Fund, which they currently have \$1.1 million dollars, and this would be half of that balance. Mr. Yates said that another way would be to borrow funds as part of the larger purpose, such as, if they did not get the CDBG Grant and they had to borrow, they could tie those funds in with the street, water and sewer and other projects to get up to a million dollar financing, because projects under one million just cost so much for the issuance costs. Mr. Yates said that they could afford that with their debt fund, which they can discuss during budget preparation.

Mr. Yates said there was another method that he would suggest, is that they could get an interim loan that the City could borrow with pay estimates, with each one being roughly \$400,000. Mr. Yates said that they could borrow from the bank at 3 percent interest, as long as they paid it back in the same year. Mr. Yates said that if they put in their bids that they pay their bills within 30 days, that is what they are used to and they could include that in their project. Mr. Yates said that if they could not pay the contractor within 30 days they would be stuck with about 70-80 days of being assured of paying a person back. Rebecca Huss said that she was reading the 380 Agreement with Kroger, and there is actually a long leeway on when the City receives the sales tax funds and when the City owes the funds, so that might be another source of funds for timing the bills.

Mayor Jones said that one thing that Mr. Yates is suggesting, if the City has a line of credit with the bank, and we do not carry a balance for a very long period and the balance has to be paid to zero by the end of the fiscal year. Mr. Yates said that he thought the City will get the CDBG Grant, and they will also make up the difference of the funds with the GLO funds, and will actually come out ahead with the GLO grant. Mr. Yates said that he would proceed on the short term interim financing and will have the City Attorney prepare some documentation. Mayor Jones asked if Mr. Yates was going to shop interest rates, or was he going to stick with the City's bank. Mr. Yates said that he would advertise and offer it to our local banks, but they would discuss that at their next meeting. Rebecca Huss said that it would be done without using the financial advisor. Mr. Yates said that was correct, he would use the City Attorney and the City's accountant, because it is a really simple process. Mr. Yates explained how the cash flow process would work once they receive the invoice from the contractor, and how the funds would be processed.

9. Consideration and possible action regarding a Lease Agreement with Ramon Laughter regarding property north of Caroline Street at Liberty Street and McCown Street

Mr. Yates advised that on June 27, 2017 City Council approved a lease with Mr. Laughter for the property immediately north of Caroline Street. Mr. Yates said that in that lease was a paragraph regarding "first right of refusal" that allows 45 days for a decision by the City to make its choice of meeting a bona fide offer from another party to purchase the property. Mr. Yates said that when Mr. Laughter received the lease for his signature, upon further

consideration, he is now asking that the 45 days period be reduced to a 7-day period. The 7-day period would give the City that period of time to decide to purchase the property or not. Mr. Yates stated that the only thing that he could see with the 7-days would be if the owner required them to remove the paving and asked the City Attorney to comment. Mr. Foerster said that he was not concerned about that issue, he thought that the pavement would be an improvement that would be very attractive. Mr. Foerster said that he knew the Laughter family, and he represents them and he did not think that this is ever going to be a problem.

Rebecca Huss said that her only comment would be that she was not sure that 7 days would give the City enough time to have two meetings, assuming that MEDC would be involved, then City Council would have to approve the action. This would either require simultaneous meetings or, in order to have the required posting times for the approval, it would be a really short period of time for public meetings. Mr. Foerster said that he agreed with Rebecca Huss and said that the only thing that he could suggest, because this is an unforeseen circumstance, under the Texas Open Meetings Law, he thought this could be deemed an Emergency Meeting where you would only have to give a two-hour notice. Dave McCorquodale asked if they had to have everything done in 7-days or could they point a direction. Mr. Foerster said that in six months to a year, the family will probably be in a better position to evaluate what they want to do with the property.

Dave McCorquodale moved to approve the Amended Lease Agreement. John Champagne seconded the motion, the motion carried unanimously. (3-0)

10. Consideration and possible action regarding approval of paving downtown leased area for a parking lot.

Mr. Yates said that he had received the following three quotes regarding paving:

Laurel Paving	\$34,334.00
Facilities Sources	\$43,575.55
Mustang Concrete Solutions	\$76,250.00

Mr. Yates advised that Mr. Roznovsky as compared the quote for accuracy of meeting specification and he is recommending Laurel Paving.

Mr. Yates advised that the MEDC has approved up to \$38,000 for the paving contract. Mr. Yates said that their intention is to have the work completed before Wine Fest.

Rebecca Huss said that she thought that they had a meeting where the Engineer said that it was about the same cost for concrete as it was for asphalt. Rebecca Huss said that the City requires concrete without a variance. Rebecca Huss said that regarding the whole water issue, they are putting a hard surface down in an area where they already have issues with water runoff, and she had some concerns about that. Mr. Roznovsky advised that the water is going to be directed to an existing drain that is there, but yes, it would increase the runoff. Mayor Jones said that lot carries runoff that is coming down FM 149 and cuts into the parking lot and goes across, so when the curb and gutter on FM 149 occurs, it will improve that situation a little bit. Mayor Jones said that the lot was naturally sloped to carry the water straight to the drain. Mr. Yates said the reason that they were going with asphalt instead of concrete was because of the possibility of having to remove the surface. Rebecca Huss asked if it was more expensive to remove concrete versus asphalt. Mr. White said that the installation of asphalt is slightly cheaper than concrete, but the removal of the concrete is a little bit more expensive, by a \$1.00 per square foot. Mr. Yates said that asphalt is allowed. Mr. Roznovsky said that it is any hard surface, so concrete or asphalt would be okay, the variance would have been if they used crushed concrete.

John Champagne moved to approve Laurel Paving and approving the Montgomery EDC payment of up to \$38,000 for the paving of the parking lot south of the Cozy Grape Restaurant and north of Caroline Street, and to authorize the Mayor to sign the contract. Mr. Yates advised that the amount would need to be amended to \$38,615. John Champagne amended the amount of the contract to include \$38,615. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

#### **EXECUTIVE SESSION:**

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

regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

11. 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 city attorney);
- b. 551.087 (deliberation regarding economic development negotiations for a possible Chapter 380 agreement concerning The Shoppes of Montgomery);  
and
- c. 551.087 (deliberation regarding economic development negotiations regarding commercial or financial information from a business prospect that the City Council seeks to locate, stay or expand in or near the City of Montgomery concerning Chris Cheatham.)

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

12. Convene into Open Session.

Mayor Jones reconvened the Regular Meeting at 8:40 p.m.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

13. Consideration and possible action resulting from the item(s) listed under Executive Session.

No action was taken on this item.

**COUNCIL INQUIRY:**

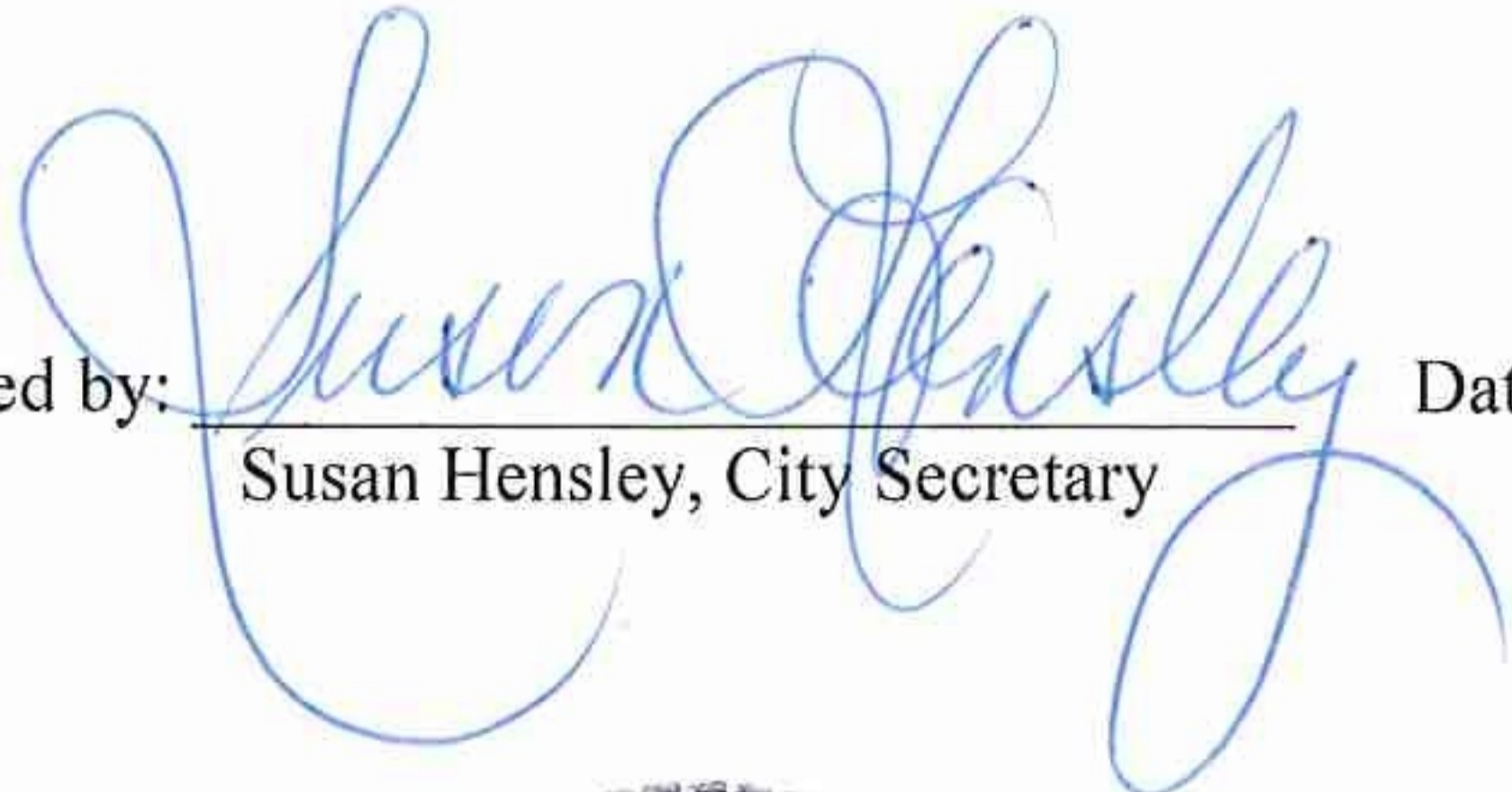
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

No comments were made.

**ADJOURN**

Dave McCorquodale moved to adjourn the meeting at 8:41 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved:

08/08/17



Mayor Kirk Jones

