

MINUTES OF REGULAR MEETING

April 11, 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: T.J. Wilkerson City Council, Place # 3
 Rebecca Huss City Council, Place # 4
 Dave McCorquodale City Council, Place # 5

Absent: Jon Bickford City Council, Place # 1
 John Champagne, Jr. City Council, Place # 2

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

Mayor Jones extended a special welcome to our contingent of the mature, old guys from Buffalo Springs and their coordinated sportswear, which is also donned by Councilmember Rebecca Huss. Rebecca Huss said that was her reminder to be humble.

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. City 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. Philip Lefevre – stated that he had wanted this to be an agenda item, because he hated coming in and making a statement and then walking out, since this was an important issue. Mr. Lefevre said that he did understand that it was being looked at by the City. Mr. Lefevre said that normally when they deal with the City, they have certain expectations, which the City does fulfill quite well in many cases. Mr. Lefevre said that when they need something from Susan Hensley, she is on the ball and gets it, and if they need something from the Police, they are on the ball and they come out smiling and handle things well. Mr. Lefevre said that Mr. Mike Muckleroy's team is probably one of the best that he has ever seen in the City, and if there is a problem, Mike is up to his neck in water and if you ever want to talk to him, he comes out.

Mr. Lefevre said that they have had some issues, and it has been less than excellent, but he is not saying it is Jones and Carter's fault, he is saying that it is the system as it is structured. The engineering is the only thing that he can see that is outsourced by the City. Mr. Lefevre said that he understands when you outsource something, Jones and Carter have to send out teams and people to look at things and get billable hours. Mr. Lefevre said that over the last two or three years he has noticed increasingly, the cost of doing things in the City has gone up. Mr. Lefevre said that he is not happy with the way the charges have occurred. Mr. Lefevre said that in Section Two, they had a water leak, which they missed and their contractor missed it, and the Jones and Carter inspector missed during their inspection. Mr. Lefevre said that normally when something like that happens, Mr. Muckleroy or Jack will pick up the phone and they would say who needs to get it done. Mr. Lefevre said that in this instance, Mr. Muckleroy followed channels and called the City Engineers. Mr. Lefevre said that it should have taken a phone call to Randy Roan to fix the leak, instead they got a \$235 invoice. Mr. Lefevre said that he did not know where that justification came from, but they are disputing that invoice.

Mr. Lefevre said that what had precipitated was for him to ask for a Freedom of Information Act request from the City for all the records for all the projects, not because they distrust the City, if there are anomalies in how things are billed, it is important that they line up all the invoices in parallel to see where things are. Mr. Lefevre said that he had spoken to Mr. Bowen and he is clearly upset about stuff. Mr. Lefevre said that essentially the way that they see it is there is really no oversight from the City, and the engineer sends out whatever bills they want. Mr. Lefevre said that whenever they have invoices they pay them, because the last thing that they want is to have the City Engineer mad at them. Resulting from the \$235 invoice, which Mr. Lefevre felt was excessive, they have asked for all the information because they want to know how the invoice is created because the bills do not have any

backup materials with them. Mr. Lefevre said that when he calls the Police Department, they come out and do a good job, so he feels that something has fallen short in the City and he did not think it was helpful for Jones and Carter. Mr. Lefevre said that he did not have the full information that he had expected because he would like to see some of the other jobs that are going on. They are already seeing a lot of anomalies, but said that he was not saying that it was dishonest, but they are clearly falling through the cracks and it is not a comfortable position.

Mr. Lefevre said that he knew that Mr. Yates was looking into the information, and he had spoken to him briefly. Mr. Lefevre said that his feeling was that he feels the City has an exposure as an example, because in a roundabout way if you approve a plat and then you want to police the developer to exercise that plat because the developer has not paid an invoice to Jones and Carter, your indirectly involving the City in a fact issue between the contractor and developer. Mr. Lefevre said that the City has to verify every invoice that comes through or at some point you have to have a system where you can clearly delineate what is a proper City function and an outsource function. Mr. Lefevre said that he believed that this issue needs to be looked at a lot more closely because it is causing a lot of ill will. Mr. Lefevre thanked the City for producing some of the documents requested.

Ms. Hillary Dumas stated that unfortunately due to a spam delay, they just received the documents from the City. Ms. Dumas said that according to the detail that they received today, they were billed three hours for Jones and Carter thoroughly reading the City of Montgomery Design Criteria Manual and detail in Code Ordinances. Ms. Dumas said that she was not sure that was something that they were responsible for, whether a City function or else. Ms. Dumas stated that there were transition meetings between Glynn Fleming and other engineers that were charged during the month of July for Lake Creek Village, Section Two, with 29.5 inspection hours that they were billed for and paid without backup materials. Ms. Dumas stated that the utility line that they did to start Lake Creek Village, there are some detailed discussions between Mr. Shackelford and Bryan Fowler. Ms. Dumas said that Mr. Fowler was not representing her and she was not sure of the detail of that bill, and she was not sure that they should be responsible for the bill involving discussion with the previous City Attorney.

Ms. Dumas said that looking at their engineering bills, Section One of Lake Creek Village consisted of 37 lots and they paid just over \$6,000 in City Engineer bills. Ms. Dumas said that Section Two consisted of 45 lots and they paid \$13,000 in engineering bills, which is a pretty significant jump. Ms. Dumas said that by all accounts, she did not think that they could find anybody that would argue that their Section Two contractor was far and away superior to the contractor for Section One, so it was not the contractor, Randy Roan that would warrant more than twice the City Engineering fees. Ms. Dumas

said that they would work with City staff and go into more detail, but this was definitely something that needs some oversight. Ms. Dumas thanked City Council. Mayor Jones thanked Ms. Dumas.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on March 28, 2017.

Rebecca Huss moved to table the approval of minutes for the Public Hearing and Regular Meeting held on March 28, 2017. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

2. Matters related to the correction of a street name dedication from Washington to McWashington.

John Champagne arrived at the meeting at 6:17 p.m.

Dave McCorquodale moved to make the correction as noted. T. J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

3. Consideration and possible action regarding authorization for Jones|Carter to do the following items:
 - a) Design Water Plant No. 3 Improvements Project;
 - b) Design SH 105 and FM 149 Waterline Replacement Project;
 - c) Design Lift Station No. 1 Replacement Project;
 - d) Design Lift Station No. 3 Force Main Re Route Project;
 - e) Design Flagship Boulevard Pavement Repairs Project; and
 - f) Advertise for bids for the Water Plant No. 2 Ground Storage Tank Backfill Project.

Rebecca Huss moved to approve items A-E pending receipt of TWDB funds, and to approve item F without contingencies. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

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

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 14.5003 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION. (KENROC PROPERTY)

Mr. Yates advised that there were two public hearings held regarding this property and this ordinance is the actual zoning of the property. Mayor Jones advised that the proposed initial zoning is commercial.

Dave McCorquodale moved to adopt the ordinance as presented establishing commercial as the initial zoning classification for the property. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding adoption of the following Ordinance: Ordinance Authorizing The Issuance Of City Of Montgomery, Texas, Tax And Surplus Revenue Certificates Of Obligation, Series 2017A; Levying a Tax and Pledging Surplus Revenues of the Water and Sewer System in Payment Thereof; and Enacting Other Provisions Relating Thereto.

Mr. James Gilley, with US Capital Advisors, present on behalf of his father, advised that last week they had received final interest rates from the Texas Water Development Board for the two series of Certificates of Obligation, Series 2017-A, and Series 2017-B. Mr. Gilley advised that the interest rates on the two Series they received was an average rate of 1.357 for the Clean

Water and 1.691 for the Drinking Water. Mr. Gilley advised that these were 20 year loans, with the first interest payment on these loans would be due on September of this year and the final principal payment would be 2037. Mr. Gilley said that the City should be very happy with these interest rates, because they are respectively 1 ½ percent and 1 ¼ percent below market. Mr. Gilley commended Mr. Yates and Ms. Hensley for all the work that they put into the application. Mr. Gilley advised that if the City were to approve the Ordinances tonight Mr. Frels would send all the necessary documents off to the Texas Attorney General's Office, then approximately 30 days later they would close on the transaction, which he believed they were scheduled for May 11, 2017, so at that point the money would be in the bank and ready to spend. Mr. Gilley said that he thought the City deserves a congratulations for a successful financing.

Rebecca Huss said that was not entirely true, the funds are not in the bank ready to spend, the City has to actually submit invoices for the funds. Mr. Gilley said that was correct.

Mr. Jonathan Frels asked if there were any questions about the legal structure of the documents. Rebecca Huss asked if Mr. Frels had corrected the typo where he copied and pasted the whole thing and left the Harris County designation on the top of our certificate for the resolution. Mr. Frels advised that was there, the Ordinance is not a certificate of the resolution, but the document has been corrected. Mr. Frels said that the Ordinances have the correct certificate pages. Mr. Frels advised that May 11, 2017 would be the closing date, then the funding will go into escrow and will be held in escrow until such time as the draw requests are made through the Texas Water Development Board and then released for the City's use. Mayor Jones asked about the process, and asked if a contractor wants to get paid for work on a project, do they submit that invoice. Mr. Chris Roznovsky, City Engineer, said that it was his understanding that there are stages, a preliminary engineering stage where they relieve "x" amount of funds to get the project started and then the second stage for the initial site survey and investigation. Mr. Roznovsky said that it is not when an invoice comes in, but when you hit milestones in the project. Mr. Roznovsky said that they will release engineering funds, then after that is approved they will release funds for construction. Mayor Jones asked if that would be done for each project. Mr. Roznovsky said that was correct.

John Champagne asked if they will mandate any oversight on their part, other than to approve stages of invoicing and/or progression of work. Mr. Roznovsky said that there is additional documentation if it is a standalone project, there are more documents involved throughout the entire process. John Champagne asked if it was more paperwork than anything else, they are not going to send people out there that they are going to bill the City for. Mr. Roznovsky said that was correct it is paperwork. Mr. Shackelford said that there will be monthly reports that report the status of the project and how the funds are tracking with what was projected for the project. Mr. Shackelford said that if there is a change order, they need to see the change order first before it goes to City Council for approval, it adds a couple of days delay. Mr. Shackelford said that they did a fairly major project at Oak Ridge North recently that was funded through TWDB and the gentleman that they worked with was very cooperative and responsive, and they had no real hiccups.

Rebecca Huss asked if they were prepared, and was it included in the estimates of all the costs as required by Davis Bacon, regarding paying union wages and only purchasing steel made in America. Mr. Shackelford said that they would have the appropriate documents in the bid documents, so the contractors will have that information. Rebecca Huss asked if that was Mr. Shackelford's responsibility to go out to bid properly and then it will be the contractor's responsibility to comply. Mr. Shackelford said that was correct. John Champagne asked if there was a stipulation that the material are bought in America. Rebecca Huss said that she believed it was called the Davis Bacon. Mr. Shackelford said that Davis Bacon is the Federal Wage scale and then there is a requirement to purchase U.S. made steel. John Champagne asked when that requirement was implemented. Mr. Frels said that this has long been an obligation that the TWDB imposes when using Clean Water and Drinking Water Revolving Funds, because they are funded with federal dollars and so the requirements get passed down. Mr. Yates said that they came about during the American Recovery Act during the 2008 financial crisis. Rebecca Huss said that Davis Bacon has been an issue and one of the reasons that federal projects are so expensive, and has been in effect since the 1930's. Mayor Jones said that they have to pay the prevailing wage that is set by the Federal Government.

Mr. Frels said that the TWDB has an equivalency and a nonequivalence program, and the nonequivalence does not receive funding from the federal government, and so these requirements are not necessary. However, the nonequivalence has a smaller interest rate

subsidy so therefore the interest rate that the City would receive would be higher and therefore the City would be paying a slightly higher interest rate. Mayor Jones said that if the City want to hire a contractor that they think will do a good job, no matter what his normal wages are, they would have to comply with the wage schedule. Mr. Roznovsky said that the contractor would have to meet the minimum wage. John Champagne asked if anyone has made a comparison as to the higher interest rate without having to be obligated to hire with the wages and other requirements. Mr. Frels said that it was his understanding that the estimated cost of the projects would include the additional wages. Mr. Shackelford said that in most cases the minimum wage that is listed for skilled labor is a little bit lower that what contractors are already paying, so it is not really an issue. Mr. Shackelford said that somebody does have to go out and verify that they are paying at or above the minimum wages. John Champagne said that this is what drives him crazy when government does things, because if it was a private entity they could go out and do this particular job for much less. Rebecca Huss said that John Champagne was right, you would have to know what the numbers are to find out if it would be better to borrow less at a slightly higher rate, or borrow more at a lower interest rate.

John Champagne moved to adopt the Ordinance as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action regarding adoption of the following Ordinance: Ordinance Authorizing the Issuance of City of Montgomery, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2017B; Levying a Tax and Pledging Surplus Revenues of the Water and Sewer System in Payment Thereof; And Enacting Other Provisions Relating Thereto.

Rebecca Huss moved to adopt the Ordinance as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding adoption of the following Ordinance: ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS SUSPENDING THE RATES PROPOSED BY CENTERPOINT ENERGY RESOURCES CORP., d/b/a CENTERPOINT ENERGY ENTEX AND CENTERPOINT ENERGY TEXAS GAS ("CENTERPOINT" OR

“COMPANY”) COMPANY’S GAS RELIABILITY INFRASTRUCTURE PROGRAM (“GRIP”) FILING MADE WITH THE CITY ON MARCH 30, 2017; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT, AND DECLARING AN EFFECTIVE DATE

Mr. Foerster presented the Ordinance to City Council advising that periodically they receive utility companies like CenterPoint Energy that make requests for rate increases or fuel rate increases, and this is another such example from CenterPoint. Mr. Foerster said that the process is that the City is the place of original jurisdiction for this request, meaning that they have to go to every city in their region that they serve and get a request. Mr. Foerster said that whether the City approves the rate increase or rejects it, CenterPoint will still submit an appeal to the PUC, which is the case here.

Mr. Foerster advised that what they are looking at is CenterPoint has made a rate increase and there is a group of cities that retain a law firm to review the rates, and when appropriate they will contest the rate increase and they will fight it in Austin and get the PUC to make an ultimate ruling. Mr. Foerster said that there is no charge to the cities themselves for this service, although it is reimbursable through the rate increase and rates paid by the customers themselves. Mr. Foerster said that the Ordinance before City Council is to suspend the rates for a period of 45 days, and at that point he will be coming back to City Council with a recommendation from the law firm to possibly reject the rate increase. Mr. Foerster said that that action would automatically be appealed to the PUC.

Mr. Foerster said that he is asking City Council to pass an Ordinance that will suspend the rate increase for a period of up to 45 days.

John Champagne said that it seems like City Council always does this action and asked if it is always by Ordinance. Mr. Foerster said that it was the option of City Council, and said if they do not take action, it will be automatically be treated as approved. Mr. Foerster said that the action is always taken by adopting an Ordinance, and said that the City will probably see this request once a year.

Dave McCorquodale moved to adopt the Ordinance as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding scheduling a Public Hearing regarding an Alcohol Beverage Permit Application for Stoney's Liquor - Montgomery, located in Buffalo Springs Marketplace, 20212 Eva Street, Suite 240, Montgomery, on SH 105 at Lone Star Parkway, for a Package Store Permit, Beer Retail Dealer's Off-Premise License, Local Distributor's Permit and Package Store Tasting Permit to be held on April 25, 2017 at 6:00 p.m.

Rebecca Huss moved to schedule the Public Hearing for the Application for Stoney's Liquor to be held on April 25, 2017 at 6:00 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action regarding scheduling a Public Hearing regarding an Alcohol Beverage Permit Application for The Kroger Company, located at 20168 Eva Street, Montgomery for a Wine and Beer Retailer's Off-Premise Permit to be held on April 25, 2017 at 6:00 p.m.

John Champagne moved to schedule the Public Hearing to be held on April 25, 2017 at 6:00 p.m. for The Kroger Company Alcohol Beverage Permit Application. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss said that she would like to point out that, yet again, people don't read or seem to be concerned with the accuracy of their TABC Permits. Rebecca Huss advised that Christine Wheatley was apparently born in the year 171, presumably that's A.D. rather than B.C., but it also shows Jack Cannon born in 1919, which is not completely outside the realm of possibility, but unlikely. Rebecca Huss said that these are signed affidavits to the truthfulness, distance to schools and birthdates of the people signing the document, she felt that people should be more concerned with accuracy. Rebecca Huss said that if TABC does not care, then we don't either. John Champagne said that he would submit the media in general today mistakes are prolific and nobody rereads anything anymore. John Champagne said that the point has been made, and asked what Rebecca Huss wanted to do. Rebecca Huss said that

she had spoken to Ms. Hensley earlier and she said that she would try to get the documents corrected.

The motion carried unanimously. (4-0)

10. Consideration and possible action regarding the Utility and Economic Feasibility Study for The Shoppes at Montgomery prepared by Jones|Carter.

Mr. Roznovsky presented the Study to City Council. Mr. Roznovsky advised that this was a 27 acre tract on the southwest corner of FM 2854, located across from Kroger in front of the sewer plant.

Mr. Roznovsky said that there were a couple of items to note. The developer submitted a preliminary site plan to the City Engineer, and the site plan has what appears to be a bunch of encroachments with existing City easements. Mr. Roznovsky said that they are recommending during the design process they sit down with City staff to discuss obtaining additional land from the developer and easements, and to find out what works best for the City and the development.

Rebecca Huss asked if this property backs up to where the City Engineer was suggesting that the City acquire additional land for expansion if they expand the Stewart Creek Plant. Mr. Shackelford said that was correct. Rebecca Huss said that there might be a trade possible to get them more attractive easements in exchange for land at the back by the sewer plant. Mr. Shackelford said that was correct. Rebecca Huss asked Mr. Shackelford to make a note to not let this slip, because this looks like the only opportunity to do this. Mayor Jones said that some of this information has already been discussed.

Mr. Roznovsky said that there is also the lift station, which is part of the TWDB funding, so they are currently looking at options of trying to relocate that lift station on site for operations purposes, and that will assist them with additional easements. Rebecca Huss asked about the onsite moving of the lift station. Mr. Roznovsky said that it would be

onsite to the sewer plant. Mr. Shackelford said that right now it is right out in the middle of the development.

Mr. Roznovsky advised that on the zoning, that tract is split into multiple zones, based on the zoning map, and it is his understanding that the preliminary land use is all commercial. Mr. Roznovsky said that subject to the TWDB funding, is that they recommend proceeding with the Water Plant Improvements Project to help increase the capacity so the City is not staying in the 97%. Mr. Roznovsky said that the project would be served off of existing water lines along SH 105 and Buffalo Springs.

Rebecca Huss asked what the anticipated use for the property would be. Mr. Roznovsky said that the use was mixed, and said that he has heard information about a pharmacy, restaurant and a couple pad sites, and in the back a larger retail, but that is all subject to change. Rebecca Huss asked if the water usage that they are assuming in the Study would be based on that usage. Mr. Roznovsky said that it was based on what their preliminary usage is. Rebecca Huss said that when they looked at McCoy's, they originally talked about ideas about a hotel behind and now their second preliminary plan is less water intensive, and asked if this development might have a bias to being more water intensive. Mr. Roznovsky said that from what they are submitting they are expecting to be retail and restaurants. Rebecca Huss said that if they had restaurants all in the back that could change the water use. Mr. Roznovsky said that was correct.

Mr. Roznovsky said that regarding the sewer system capacity, Lift Station 1 capacity is a concern, which is included in the TWDB projects that they are recommending proceeding with replacement. Mr. Roznovsky said that the size of the gravity line that enters that Lift Station, and said that part of the discussion with the developer would include extending and upsizing that line.

Mr. Roznovsky said that regarding drainage and paving, Stewart Creek runs through the tract, so they will be required to provide a public drainage easement for that to allow for the passing of Stewart Creek through the property, as well as design it so that would not

cause an impact. Mayor Jones asked if they might have to have detention or something else. Mr. Shackelford said that they might have to do detention, and they are also going to be looking to see if they might want to straighten or realign the stream. Mr. Shackelford said that the other aspect would be that they need to make certain that their adequate maintenance berms on either side of what the ultimate ditch might look like, so that if improvements are required ten (10) years down the road there is land to do that. Mayor Jones said that there would probably be a bridge across Stewart Creek on this property. Mr. Shackelford said that there has been some conversations, by the developer, regarding that matter. Mr. Roznovsky said that the preliminary land plan shows some type of access across Stewart Creek. Mr. Shackelford said that he did not know whether it was bridge or culverts.

John Champagne asked if they were to straighten the creek, would they have to slow the flow for people downstream, because he is assuming that the curves slow the flow. Mr. Shackelford said that the culverts under SH 105, is a little bit of a velocity reducer, and anything that they might put across Stewart Creek might be a little bit of a flow reducer. John Champagne said that whatever was downstream would have to deal with it. Mr. Shackelford said that the nice thing is, the SH 105 Bridge culverts are restrictive. Mayor Jones said that part of the advantage of this property and some of the other properties developing on those corners are close to the lake and the water gets out of there.

Rebecca Huss asked if this was at the end of the City's Regional Detention. Mr. Shackelford said that this was located at the southern end of the study that they did about a year ago. Mayor Jones asked if they need to consider that for this project. Mr. Shackelford said yes, that was something that he had discussed with Mr. Roznovsky. Mr. Shackelford said that because no formal action was taken by City Council, it is difficult to require anything, unless they choose to voluntarily do something.

Dave McCorquodale said that regarding straightening out the channel seemed to be counter to the way that the City recognizes that storm water works these days, because in Houston they are spending a lot of money to unstraighten channels that were straight. Dave

McCorquodale said that his question is, in the context of the development that goes on upstream from this site, are those parcels held to different standards because this development was first. Mr. Shackelford said that the overall message for the people upstream is, you can't raise the extreme event water surface elevation above what is on the Flood Plain Map. Mr. Shackelford said they have to mitigate whether it is on site or off site, so that there is no impact downstream, which this developer has the same obligation, they can't raise the water surface elevation downstream. Dave McCorquodale said that it seems like the answer has been for everything, at least in his recent memory, that you are good to go you don't need to dig anything at all. Mr. Shackelford said that it has mainly been north and east of SH 105 where it is more of a clear shot to the lake, but the more upstream you go, the more it impacts and they have to mitigate. John Champagne asked if the proximity of this development to the lake has a lot to do with it. Mr. Shackelford said that it has some to do with it, and said to keep in mind that the bridge is a little bit of a restrictor for them both under SH 105 and Lone Star Parkway.

Dave McCorquodale said that the last question he had was on the site plan, where there is a really large open space on the southwest corner of the tract, and asked if they were assuming allowances regarding enlarging that wastewater site plan, because it is larger than the parcel boundary shows. Mr. Roznovsky said that they are showing the easement so they control some of what building goes on, and they also show a little bit of additional space for the Wastewater Treatment Plant site, so they knew that was something that they knew the City was interested in. Mr. Roznovsky said that now that the developer has the information on where their easement are and how much of their site is encumbered by the easements, they can discuss the options. Dave McCorquodale asked if that was why the area was left so open, because that is the piece that everyone would talk about. Mr. Shackelford said that they have a sanitary control easement around the Wastewater Treatment Plant, so that is helping leave some of that space open, because TCEQ does not allow anything within that sanitary control easement, which he believed was 150 feet. Mr. Roznovsky advised that where the 2.01 acres, which is currently an easement to get to the Wastewater Treatment Plant site. Rebecca Huss said that the way that it is set up, the City needs to have the other basin set up right next to the existing basin, otherwise they might

as well build another one wherever, because there is no benefit to having that 2.01 acres. Mr. Roznovsky said that some of the thought was also for City facilities so Public Works could have more equipment storage. Rebecca Huss said that she would rather have room for a second basin than room for a metal building. Mr. Shackelford said that there was room for another basin going back towards the east, but said to keep in mind that the Sewer Master Study called for this plant to max at its current capacity. Mayor Jones said that now is the time to get the property dedicated.

Mr. Roznovsky said that regarding development costs, their water and sewer system capacity costs will be \$485,000. Mr. Roznovsky said that the final item is the estimated tax revenue from the property based on their assumed assessed value they will be looking at \$33,000 annually at the current tax rate, and 95 percent collection. Mayor Jones said that he wanted to see the sales tax estimate, which will be different.

Mr. Shackelford said that they are asking City Council to consider accepting the Feasibility Study, and then they will come back and negotiate a development agreement.

11. Dave McCorquodale moved to accept the Utility and Economic Feasibility Study for The Shoppes at Montgomery as submitted. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

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. (There are no items)

COUNCIL INQUIRY:

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

Rebecca Huss stated to Mr. Yates that she felt that Mr. Lefevre had some good points, particularly she thinks that it is difficult to separate out what is the function of our increased number of ordinances and the quality of construction and the appearance to the actual ordinance, that they are doing a better job of enforcing and how much of it is increased activity and also the idea that cities do provide engineering services of some sort to their customers as part of their regular cost of doing business. Rebecca Huss said that while bigger cities have a City Engineer, that Engineer does things as part of their regular course of business that they don't charge people for and she did not know if they needed to look at that list of thing that the City does, so that they could be more like a normal City where developers do not get charged for certain activities that really are City activities.

Mr. Yates said yes, and said that he briefly looked at the charges today and found some plan review charges for plats that had already been paid. Mr. Yates said that he would be reviewing all the charges and speaking to both Mr. Lefevre and Mr. Shackelford. Mr. Yates said that he is going to start reviewing the Jones|Carter bills every month for each of the projects, then they will distribute the bills out to the developers based upon that review.


Mayor Jones said, just to understand the process, Jones|Carter sends an itemized bill to the City. Mr. Shackelford said that Jones|Carter sends an invoice per project to the City that identifies the employee classification and the hourly rate, with the number of hours. Mr. Shackelford said that Mr. Yates recently asked for itemization of those hours, and they are happy to provide that information. Mayor Jones asked if when the City invoices the developer, do we exclude all that detail and just send the total. Mr. Yates said that was correct. Mayor Jones said that within some of the detail, they might think that it applies to the project, but in reality it is general engineering and City stuff, like Ms. Dumas mentioned. Mr. Shackelford said that is separate. Mayor Jones said that Ms. Dumas brought up several things that he felt definitely should not have been charged to them. Mr. Roznovsky said that they will go into detail with Ms. Dumas on each individual item, but the two examples that she mentioned, there are codes "F", "T" or an "X" next to each charge, so for "T" the fee is transferred out, so if someone incorrectly put time on an invoice they move it out. Mr. Roznovsky said that the example that was

given as far as the training, that was not billed to them it was transferred out and was a charge to Jones|Carter that showed up on their ledger. Mr. Shackelford said that because Ms. Dumas was not reading the coding, she assumed that she was being charged for that, when in effect it was transferred to Jones|Carter's overhead costs. Mayor Jones said that staff is going to work out a better system for the billing.

ADJOURNMENT

John Champagne moved to adjourn the meeting at 7:05 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: 04/25/17
Susan Hensley, City Secretary


Mayor Kirk Jones

