

MINUTES OF PUBLIC HEARING and REGULAR MEETING

March 28, 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
 Rebecca Huss City Council Place # 4
 Dave McCorquodale City Council Place # 5

Absent:

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

1. Receive the Final Report from the Planning and Zoning Commission on their Public Hearing held regarding establishing a zoning district for land to be annexed, as described: all that certain 14.5003 acre tract of land, more or less, situated in the John H. Corner Survey, Abstract No. 8, Montgomery County, Texas.

Mr. Yates advised that the Planning and Zoning Commission had met last night and conducted their Public Hearing and there were no citizens that attended to make comments. Mr. Yates said that the Commission passed a recommendation to City Council to approve the zoning for commercial usage. Jon Bickford asked if there were any restrictions on the commercial usage. Mr. Yates said that it would just be commercial usage.

Rebecca Huss moved to accept the recommendation from the Planning and Zoning Commission to zone the property commercial. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

PUBLIC HEARING:

Convene into Public Hearing:

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

2. For the purpose of giving all interested persons the right to appear and be heard regarding establishing a zoning district for land to be annexed, as described: all that certain 14.5003 acre tract of land, more or less, situated in the John H. Corner Survey, Abstract No. 8, Montgomery County, Texas.

There were no comments made during the Public Hearing.

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

Reconvene into Regular Session:

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.

There were no comments made.

CONSENT AGENDA:

3. Matters related to the approval of minutes for the Regular Meeting held on March 14, 2017.
Dave McCorquodale moved to approve the minutes as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

4. Discussion regarding Community Policing and the capabilities and philosophies of the Montgomery County Sheriff's Department by Chief Deputy Ken Culbreath.

Chief Deputy Culbreath, with the Montgomery County Sheriff's Department, advised that their primary focus is realigning the Sheriff's Department to a precinct model. Chief Deputy Culbreath said that the traditional model has been policed by district and zones, which is divided up by certain divisions so they follow investigations based on divisions. The Sheriff has decided that he wants to do precinct model policing so they have realigned the Sheriff's Office to fit that model.

Chief Deputy Culbreath introduced Lt. Fitzgerald, the Lieutenant for this area, Captain Bryan Carlisle and Captain Franklin. Chief Deputy Culbreath said that out of the ten people on the leadership team, everyone has 20+ years of experience in their specific field.

Chief Deputy Culbreath said that the City of Montgomery is located in the West Division, and when a crime occurs that requires a follow up it will fall under the West Division Captain. The West Division allows the Captain to have control over the investigations and traffic control that should occur in their area, which allows the information to flow faster than the previous system. The Sheriff's Department is also developing a staffing analysis, where they can have uncommitted time for the deputies, with the goal of having 50 percent of their shift dedicated to uncommitted time, which will allow time with their contacts and proactive policing activities. Chief Deputy Culbreath said that the Sheriff's Department has over 850 employees so it takes a while to make the changes. The Sheriff's Department goal is to have a full Community Policing Model for the precincts by this time next year. Chief Deputy Culbreath advised that a Policing Model is a philosophy that has to come from the top down, so it will take time.

Jon Bickford asked if Captain Franklin runs the West Division. Chief Deputy Culbreath advised that Captain Franklin was over the West Division and Lt. Fitzgerald reports to him. Jon Bickford asked for the boundaries of the West Division. Chief Deputy Culbreath said that the Sheriff has taken I45 to separate the County, so they have a West and East and they have The Woodlands Township Division with 97 employees. The Sheriff's Department is

still going through their CAD system to start zoning the divisions, with roads as the boundaries so that it is easier for the deputies to identify. Jon Bickford asked how many officers would be in the West Division. Chief Deputy Culbreath advised that the goal will be in the Precinct Model to have specific deputies that would respond to zones, allowing them to increase their public contacts and get to know the merchants and people in their areas. That goal will be for the deputies to recognize when things occur in their area, identify problems and pinpoint the manpower as needed. Jon Bickford then asked about the communication plan between the Sheriff's Department and Montgomery Police Department, given that there are going to be people doing the same things, such as reaching out to businesses, local policing, etc. Chief Deputy Culbreath said that they have not had the opportunity to sit down and discuss that information. Jon Bickford asked if that would be done. Chief Deputy Culbreath said that would depend on the relationship with Montgomery and how you want to work at moving forward.

John Champagne asked how many of these presentations have been made to different municipalities. Chief Deputy Culbreath said that they have done The Woodlands and the City of Montgomery is number two. John Champagne asked if this information has been discussed with the Montgomery Police Department. Chief Deputy Culbreath said that it has not, which was why he is here to discuss this with City Council to let you know about the Sheriff's plan as they move forward throughout the County. Chief Deputy Culbreath said that all the Police Chiefs that attended the meeting in early January have heard a short version of this presentation, so it is not the first time that the local law enforcement officials and heads of agencies have heard about this plan.

Rebecca Huss stated that when they mentioned staffing and personnel, was that something that they were planning on keeping up, because it was her understanding that the Montgomery Police spend quite a bit of time out in the County. Chief Deputy Culbreath said that they frequently move personnel as it pertains to days off, vacations and work load, so that is a constant daily function that the Captain and his Lieutenant set every single day. The Sheriff's Department has almost completed their staff analysis that has been going on since the Sheriff took office. The Sheriff's goal is to try and increase personnel as it pertains to work flow and productivity for certain areas. The City of Montgomery, or this

area may be condensed with an enormous amount of people, but the crime might not be represented as it is in another section of the County. Rebecca Huss said that the City has had almost 200 calls that our police officers have been busy out in the County, so is that a staffing problem on the part of the Sheriff's Department. Chief Deputy Culbreath said that it was not a problem on their side, and said that part of his Staff Analysis Study was that he took every area of the County and the City of Montgomery from January 1 to February 28, 2017. During that time the Sheriff's Department ran about 153 calls into the City of Montgomery, and on 61 of those calls the Sheriff's Department was the primary unit. Rebecca Huss asked what that meant by "primary unit." Chief Deputy Culbreath advised that it means that they were the one that took the lead on the call for service. Rebecca Huss asked if that meant that the Montgomery Police were not available. Chief Deputy Culbreath said that he did not know because he can't see their schedule.

Dave McCorquodale asked if there was 50 percent uncommitted time for the deputies. Chief Deputy Culbreath said that their goal was to have 50 percent of the deputies' time where they are not running calls for service and they are spending time building a relationship with the community. Dave McCorquodale asked where they felt that fell into the National or State wide numbers regarding the 50 percent. Chief Deputy Culbreath stated that was National goal that most departments try to achieve, because if all the deputy does is respond to calls during their shift, they never make contact with citizens on a personal level.

Chief Deputy Culbreath said that one of the things that they already started the process is building surveys, so citizens will have a follow up survey, by a supervisor, that will follow up and check the service that their officer rendered at the time of the call. The Sheriff's Department also has the CAPS Program, where they will partner with the community to share information on what is going on, in as much real time as they can, and they are going to try and provide information to the public and allow the public access to the Sheriff's Department to identify issues that might need to be brought to their attention at the command level. Those things will be measured during the process, either through surveys or constant contact by the Captains as well as the Lieutenants. Chief Deputy Culbreath said that because The Woodlands already has the structure almost in place, that Captain in

The Woodlands has been able to use her Lieutenants and Sergeants to circle back and check the productivity of their employees.

Rebecca Huss then asked about the capabilities of the Sheriff's Department, in terms of hostage negotiation going through this area to go to Magnolia, and asked how they matched their services, because the County is so much larger, and how did those services get matched into a local police department. Chief Deputy Culbreath advised that he did not know how many personnel the City has, but trying to have your own hostage negotiation team might be problematic. Chief Deputy Culbreath advised that the Sheriff's Department has 10 full time SWAT deputies, with 20-25 specialists, and they have an entire group of negotiators. Chief Deputy Culbreath said that if you have to pull people off their shift, the City would lose that flexibility to have them protect the City's priorities. The City definitely has the resources to use the assets of the Sheriff's Department. Chief Deputy Culbreath said that it was not uncommon for them to go to a City to help bring a positive resolution to something that has occurred in the City.

Jon Bickford said that he would like to make a request that when they get closer to organizing thoughts and plans around how many people the City of Montgomery is going to have and what the Sheriff's Department thinks coverage needs to be for this area, that you make an appointment and share that with our Chief of Police or come back to City Council. Chief Deputy Culbreath said that he would be happy to come back to City Council.

John Champagne said that personally, he would like for the Sheriff's Department to be in touch with our Police Department. Chief Deputy Culbreath said that their partnership is increased for sure and is definitely something that needs to be worked on, but he is not sure how they get there. Jon Bickford said that it would make sense, while they are building this plan, that the Montgomery Police Department be a part of or at least aware of what is going on. Chief Deputy Culbreath said that he is here for City Council, but a portion of this plan was already unveiled to the majority of the Police Commanders in early January, and he was doing his due diligence to pass the information on tonight. Jon Bickford said

that City Council appreciated the information very much and thanked Chief Deputy Culbreath. Mayor Jones also thanked Chief Deputy Culbreath for coming to the meeting.

5. Consideration and possible action on Department Reports.

A. Administrator's Report – Mr. Yates presented his report to City Council. There were no questions regarding the report.

B. Public Works Report – Mr. Mike Muckleroy, Public Works Manager, presented his report to City Council. Mr. Muckleroy advised that they had completed drainage improvements on Harley Drive, repaired a water main break on Eva Street at Heritage Medical Complex, treated all the parks and City Hall for ants and set the historical marker at the Nat Davis Museum. There were 15 water taps, 10 sewer taps, and 2 water leaks with one being in Memory Park, 1 sewer stoppage and 5 sewer inspections. Mr. Muckleroy advised that Fernland docents reported at total of 914 visitors for the month and they provided 57 tours.

John Champagne asked about Memory Park, stating there had been some vandalism there so he took some photos, and he recommended that they might want to consider having a sign there stating that the park is closed at dark. John Champagne asked if they had implemented the charges for professional photographers. Mr. Yates advised that they have implemented the charges. John Champagne asked if they were paying with credit cards with no problem. Mr. Yates said that it actually had only been in effect for about a week so he really did not have an answer to that, but they have the capability of making credit card payments.

Mayor Jones asked Mr. Muckleroy to discuss the drainage issue on Harley. Mr. Muckleroy said that there were two different issues. The one at 162 Harley was a ditch that was flowing backwards and holding water, and to correct that problem they had to do four houses down to allow it to flow all the way around. At 123 Harley, there was no defined ditch, so when the water came down the road instead of staying in the ditch, it sheet flowed over into Mr. Burleigh's property. Mr. Muckleroy advised that they cut a ditch to keep the water flow off of the roadway and flow in front of Mr. Parker's residence. Mr. Muckleroy advised that they had rented a mini excavator. Mayor Jones asked if the ditch would fill in

itself with grass. Mr. Muckleroy advised that was correct, and said that they had checked the ditch after the rain and it was working and doing what it was supposed to do.

Mayor Jones asked why the water was off at midnight last night. Mr. Muckleroy said that they discovered a small leak at the corner of Caroline Street and FM 149 a couple days ago. Mr. Muckleroy said that after verifying that it was not the hydrant, they called in locates on the line and they dug up the leak yesterday, where they found a small crack in a six inch line, and they did not want to end up with what they ended up with last month, shutting have the City down. Mr. Muckleroy said that the leak had to be isolated to repair it, so they did some searching for valves, and could not come up with a definitive way of shutting the line down, so they decided to wait until this morning to come back in and fix it, but at 12:30 last night one of the police officers called and said that the line had blown apart and there was water everywhere. Mr. Muckleroy said that they shut down the water at 12:30 that night and made the repair. John Champagne asked about the diameter of the line, and whether everything was Schedule 40. Mr. Muckleroy advised that the line was 6 inch and the pipe was a thinner walled pipe, SDR 26, which is still rated for 160 pounds, but it is a cheaper, thinner pipe, but it did have a Schedule 40 fitting on it. John Champagne said that he just wondered why in certain areas, that might have more velocity, they might want to consider a higher Schedule pipe. Jon Bickford said that it was not the pipe that burst anyway, it was the fitting. Mr. Muckleroy said that was correct.

- C. Police Department Report - Chief James Napolitano presented his report to City Council. Chief Napolitano stated that they were able to help Mr. Muckleroy's guys while they fixed a water line break last month. Rebecca Huss said that she did not think that Mr. Muckleroy was in any danger getting run over because the last time she saw him he was five feet underground and up to his neck in water. Chief Napolitano said that they were having many people exceed the speed limit even though they had trucks out there with lights on and police vehicles. Officer Carswell wrote 11 tickets to people that could not figure out what they were doing. Chief Napolitano said that they obviously do not know that, by law, you have to slow down to 20 miles under the speed limit or change lanes.

Mayor Jones said that relative to the presentation from the Sheriff's Department, he got the feeling that we do not have a very good relationship with them, but on the other hand,

looking at it from this side, he felt that they did. Chief Napolitano said that on the contrary to what the Chief Deputy had to say, number one he would like to see his stats and it would have been nice of him to email his stats before he presented those as a professional courtesy, on his part. Chief Napolitano said that the Chief Deputy has never reached out for him to talk about the precinct issue other than at the Chiefs' Meeting, which they have once a quarter. Chief Napolitano said that he was at that meeting when they made their presentation, and they talked about it, but said that they were not quite ready to implement that particular program yet. Chief Napolitano said that the Montgomery Police Department has been doing community policing for the last three years. Chief Napolitano said that he can say that people in this town know who their police officers are and they know what shifts we work and they reach out for their Officer Bauer or Officer Bracht or whoever they want to have that relationship with and know them by their first name and work with them constantly. Chief Napolitano said that as far as the Sheriff's Office goes, here in District 5, we have a great working relationship with those guys and the reason that they go out and answer calls is because right now their manpower in District 5 can be as little as three with one supervisor, if they have the one supervisor. Chief Napolitano said that if Lt. Belmares hears that one of the Sheriff's Department officers is going to a service in progress alone, if available, he will go out and assist. Chief Napolitano said that the Chief Deputy's numbers on 150 calls inside the City, that they answered for the Montgomery Police Department, he would like to see the times and dates of those calls so that he can see where his officers were. Chief Napolitano said that there is going to be a certain time where they only have one officer on duty between midnight and 6 a.m., so if that officer makes a DWI arrest they are tied up for 5 hours taking that person to jail in Conroe, they might have to respond to a call in the City. Jon Bickford said that the Chief Deputy said there were 67 calls where they were the lead with 150 total calls, so he would assume those 67 would not mean they were backing the Montgomery officers if they were lead. Chief Napolitano said that the lead means they got to the call first, and he did not remember too many calls where they took the lead from the City on a call where the Montgomery officer showed up, because they usually hand off the call to Montgomery, which is the same thing that Montgomery Police officers do when it is in their jurisdiction and we get there first. Chief Napolitano said that the other night when dispatch put out an attempt to locate and he was at the location of South Pine Lake and SH 105. He called dispatch back and the dispatcher advised that the vehicle was already southbound on Pine Lake Road. Chief Napolitano

said the drunk driver that had hit a woman in front of April Sound on SH 105, almost killing the woman, he had chased the driver down South Pine Lake Road. When Conroe Police Department came he relieved the call to Conroe PD, but he was able to detain the subject because he was in the right place at the right time. Chief Napolitano said that if he hears a Sheriff's Department unit say he is going to go out on a call he will help them when they are in the surrounding areas of the City.

John Champagne asked Chief Napolitano if he could do a lot with statistics to make them look the way you want them to look. The Chief said that was correct. John Champagne said that he found it interesting that this was only the second presentation, after a year of this philosophy, and he was very impressed with the education, that the City of Montgomery is the only one that the Sheriff's Department thought it was important enough to present to. Chief Napolitano said that the City of Montgomery would be the first incorporated municipality because The Woodlands was not incorporated. Chief Napolitano advised that The Woodlands was actually a district of the Sheriff's Department. Jon Bickford said that it would be very nice if they bring anything else along. Chief Napolitano advised that Sheriff Henderson did not start his term until January 2017, after being elected in March, so it has only been three months. Chief Napolitano said that they have only had one meeting with the department. John Champagne asked if they had transition management change at the Sheriff's Department. Chief Napolitano said that they did have a transition period, but they are all still in that process. Jon Bickford said that the districts will go away and they will have zones instead. Chief Napolitano said that was correct, the officers will have specific zones that they will be assigned to.

Rebecca Huss said that if they were talking about statistics, it has been a year and three months since City Council has received anything approximating statistics about calls that have been received and answered in the City. Rebecca Huss said that all they are receiving to go off of is the Court Report, which shows again that citations are at the worst over the last three years. John Champagne asked what was meant by the worst. Rebecca Huss said that they were the lowest that it has been in February for the last three years, if you look at the Court Report. Rebecca Huss said that what they had received in the past was a breakdown of calls that were answered so that they knew what activity was happening in the City, which again, per statistic, and while John Champagne is stating that the statistics

from the Sheriff's Department are slanted, while we are getting no statistics from our own department. Chief Napolitano said that he had said that he would have liked to have seen the statistics prior to the Chief Deputy presenting them and since they have gone to Spillman and they are no longer on the old system, and then the Sheriff's Department pulled them off of the new system for a study, and for three weeks the Police Department could not see any calls except calls that were inside the City of Montgomery. Chief Napolitano said that he sent Chief Deputy Culbreath an email and asked what was going on and why was it happening, and the Chief Deputy said that it was happening in other areas around the County. Chief Napolitano said that he knew that the City of Shenandoah went through the same situation that they had gone through, so if there was a call outside the City, they would not be able to see the notes on that call. Chief Napolitano said that the system was back the way that it used to be, but he still can't get on a computer and pull down the stats, which is why they are trying to change things with the Strategic Plan.

John Champagne asked Rebecca Huss regarding the point of statistics, what she was looking for, such as arrests, etc. Rebecca Huss said that three months ago there was a spread sheet that had month by month, vacation checks, DUI's, vehicle burglaries, home burglaries, where there were 12-15 different categories where they saw the total number of calls and how there were answered. John Champagne asked what that report would bring to the City Council. Rebecca Huss said that if there are no vehicle burglaries, then that is an indication that they would not need a City sponsored Lo Jack Program, for example, but on the other hand you can't make any decisions about how safe the City is or whether they are staffed appropriately, or anything, if they do not know how many calls the department is taking. Mr. Yates said that report was the statistics that the County used to provide, but they stopped providing the information. Rebecca Huss said that they might need to ask the Sheriff's Department for the information, because surely they have the ability to pull the information out because they are controlling the system. Chief Napolitano stated that before the Sheriff's Department changeover with the current administration, they had asked the Sheriff's Department for the information and they stated that they were still trying to deal with Spillman. Chief Napolitano said that his Department has problems with Spillman on a daily basis, which is the Sheriff's Department system. John Champagne said that personally he did not want to see the Report, he goes back to the point that to micromanage the department heads that they have in place, he did not see that as their position or focus.

John Champagne said that they were supposed to overview and make sure that they are good stewards of the citizen's money and that they put people in place that know how to do business and know how to run departments. John Champagne said that he did not want to be flooded with statistics.

- D. Court Department Report – Rebecca Lehn, Court Administrator, presented her report to City Council. Ms. Lehn advised that the month of February was a very good month, being the second highest in warrant collection in the last three years.

Rebecca Huss stated that the number of citations filed were the worst in three years. Jon Bickford said that he did not measure lots of citations as being good, he felt that as people are learning not to speed through the City of Montgomery or run stop signs, so they are not issuing as many tickets and that is a good thing to him. Mayor Jones said that the number of tickets written were almost exactly the same as the number of warnings that were written. John Champagne said that it was always running about 50/50 for tickets and warnings. John Champagne said that these guys do a great job and they are not a speed trap.

Mayor Jones asked about the warrant roundup and whether it caused the warrant numbers to go up. Ms. Lehn advised that the warrant roundup is with Montgomery County, so they assisted with the roundup, but it was running County warrants. Ms. Lehn said that if the collection agency runs a warrant roundup, they mail out notices for the ticket holder to be notified that if they do not take care of their ticket, they are going to be subject to arrest during the warrant round up. Ms. Lehn said that the collection agency that sent out all the notices in January helped, and it is also tax season, so warrants collection number will be higher in February, March and April because people get their tax money and they want to renew their driver's license and the City has a hold on it because of their ticket. Mayor Jones said that on the round up, if it is County wide, does the City end up benefitting. Ms. Lehn said that when the County does the warrant roundup, they have their judge, the warrant roundup goes straight to the County Court, Precinct 1, Judge Mack. Ms. Lehn said that the list that they are running are based off of County warrants and not the City's warrants. Ms. Lehn said that if the City put their warrants on that list, and the County was running them, the City would have to have a judge, software program, something to go in place with the County when the people come in. Ms. Lehn said that the City of Willis had

a judge and court administrator there and they worked on the same program that the County does, so they were able to collect money or the judge would talk to the defendant and handle the case. Ms. Lehn said that the scare of going to jail during the warrant roundup works better than the officers going and collecting the fines or the people going to jail. Ms. Lehn said that the City benefits from the County warrant roundup, because the people with our tickets think that someone is going to come and get them. Mayor Jones said that the City has a roundup every day because the City has their own warrant officer. Ms. Lehn said that they do work with the County and participate. They do a mass mail out advising people with tickets of the warrant roundup during the month of February.

Jon Bickford asked about the total revenue collected, and stated that it was warrants plus what else. Ms. Lehn said that out of the \$67,000 only \$33,390 of that amount was warrants. Jon Bickford asked what the rest of it was from. Ms. Lehn said that it was anything from past citations, people that were on payment plans, things that were previous numbers. John Champagne asked who instituted payment plans. Ms. Lehn said that the Judge does, and they only do a 30-day plan.

- E. Utility/Development Report – Mr. Yates advised that he would be presenting the report tonight. Mr. Yates stated that the utility revenues were \$84,998, which was \$15,000-\$17,000 more per month than last year due to the rate increase. The revenue from permits was \$15,748 for the month. Mr. Yates noted that there were 572 active accounts. Mr. Yates said that regarding the City account consumption there were two notations. First, the Community Building went from 2,000 last month to 14,000, which is primarily due to irrigation. Second, the Buffalo Springs Sewer Plant went from 232,000 gallons to 91,000 gallons, because they had two weeks from the new recirculation going online. Mr. Mike Muckleroy advised that next month they will see the true figures. Mr. Yates said that they are expecting those numbers to go down to 13,000 or 14,000. Mayor Jones said that was great news.

Rebecca Huss asked if they were going to look at the water and sewer rates again, because last year when they set the new rates, they had stated that in the summer they would look at where the City is regarding the revenue side, but also whether they had been able to drive down any of the costs. Mr. Yates said that he had to think about the information and then

talk to City Council because the City is doing so well and said that the Utility Fund is \$116,000 revenue over expenditures and will increase as the summer months hit. Mr. Yates said that about the time that they start the budget process will be the time that they can start the review process. Mayor Jones asked if those funds included the monies that used to be the GRP fee. Mr. Yates said that was correct. Mayor Jones said that the City was going to continue to collect that fee and dedicate it. Mr. Yates said that was correct, it is dedicated to a line item for capital improvements. Rebecca Huss said regarding capital improvements, they had talked a month ago about spending some money on investigating some of the sewage and water infiltration and those types of things, and presumably anything like the lift stations, they probably need that \$116,000 and then some. Mr. Yates said that they had a proposal two weeks ago from Gulf Utility to look at every manhole in the City regarding the infiltration, which is about \$18,000 - \$19,000. Mr. Yates said that they have the City Engineer considering the proposal and other options.

Jon Bickford asked about the City account consumption and asked if it was in gallons. Mr. Yates advised that it was in thousand gallons. Jon Bickford asked that they put that in the information for the report with a parenthesis and three zeros, to clarify it for everyone. Mr. Yates said that they would take care of that. Mr. Yates said that they only had three residential building permits for \$3,042, and one commercial building permit that was \$8,190. Mr. Yates said that the total revenue for permits was \$15,748 for 42 permits this month. Mr. Yates said that they did not have any bookings at the Community Building for the month, other than non-profits.

Jon Bickford said that it ceases to amaze him how green everything is around here, and yet how little water we use everywhere else, except at Memory Park, where they use a lot of water. Mr. Muckleroy said that there were a lot of plants at Memory Park. Jon Bickford said that he has a lot of plants at his house and it has been raining every three or four days, so why do we have to keep watering Memory Park, he understands the summer. Mr. Yates said that they are guided by how much rainfall occurs. Mr. Muckleroy said that the sprinkler system that they have at Memory Park is a very sophisticated and intelligent system that calculates every day, including the humidity level and calculates the amount of run time until the next day, based on the amount of sunshine, temperature, humidity and rain fall. Mr. Muckleroy advised that Mr. Randy Burleigh checks that system every single

day and cleans out the heads of the sprinklers and redirects them when necessary. Mr. Burleigh is training one of the public works employees on how to run the system. John Champagne asked if the system was very efficient. Mr. Muckleroy said that it was very efficient, and while it uses a lot of water the numbers have dropped dramatically from last year to this year. Jon Bickford said that the usage is about half of what it was last year, because it used to be half of what the sewer plant used. Rebecca Huss said that part of this is the City's fault because every time the Memory Park people come and say they have a great idea and City Council says that is fabulous, but that comes with extra irrigation. John Champagne asked why they don't defer some of the money they make off of these professional photographers to offset some of the costs to this park, and said that in his mind they are combined. Mr. Yates said that he would look at that during budget. Jon Bickford said that they should look at doing something to combine that activity, because they talked about charging for the photographers at Fernland and asked if they should be charging for photographers at Memory Park. Mr. Yates said that they discussed that last month, and it would be hard to do because they do not have the docents at Memory Park.

- F. Water Report - Mr. Mike Williams, with Gulf Utility, presented his report to City Council. Mr. Williams advised that this month they had six district alerts during the month, including discolored water that required the lines to be flushed, Lift Station 13 power outage, sewer stoppage at the bus barn, Lift Station 3 high run time and Lift Station 3 high wet well.

Rebecca Huss asked if Lift Station 3 has had a couple of high run times recently. Mr. Williams confirmed Lift Station 3 has had high run times and it is mainly the pump that they recently had rebuilt. Mr. Williams said that Monday after the rain storms, they had some more high run times, so they had the pumps pulled and pump number 1 was shorting, which was the one that they just had rebuilt so they are taking that in and got the City a rental pump and they are going to see exactly what the problem is. Rebecca Huss asked if the vendor was paying for the rental, since we paid for the repair that did not get repaired. Mr. Williams said that it will depend on the outcome, because if it is due to a power surge they might not cover that rental. Rebecca Huss said that they could add that to the Entergy bill.

Mr. Williams advised that the flow for the month of January was 5,736,000 gallons, and the daily peak flow on January 18, 2017 was 437,000 gallons, which is 109% percent of permitted value. Mr. Williams said that the average daily flow was 179,000 gallons, which is 45% percent of the permitted value. Mr. Williams advised that the effluent line sampling report showed all samples being within range and compliance, and they had 3.9 inches of rain during the month. Mr. Williams said that on the water report it showed that the City was at 94% percent accountability.

Mr. Williams said that the totals on the Water Report that were not shown and should read: Well 2 – 14.3%; Well 3 – 52% and Well 4 – 33.7%. Mr. Williams stated that the water sold and water treated, this month they were at 102% percent returned to the sewer. Rebecca Huss said that she had spoken with Mr. Williams earlier about this, but she did not know if the measuring instrument is wrong again, but there has been a big jump in the percentage of return with actually slightly less rain, so she did not know if it was a timing issue, or the amount of rain or they need to keep an eye on that information. Rebecca Huss said that it definitely shows that they have a lot of extra water in the system if they have gone from the 40's and 50's to the 80's and 100's for percent return numbers, which is not good because that is actual real cash. Jon Bickford asked if there was any logical explanation for this problem. Mr. Williams said that it depends on a couple of factors, such as the rainfall and the intensity of the rain and in what area of town the rain occurs. Mr. Williams said that some of the newer areas in town are not going to have as much infiltration as the older sections.

Jon Bickford asked when they got the rain that washed out the bridge. Mayor Jones said that was in May 2016. Jon Bickford said that time happens to be here and on those months, 51 percent in May and 37 percent in April, and then they had 56 percent in June of 2016. Jon Bickford said that something does not make sense. Mr. Williams said that back in November they changed out the effluent totalizer at the sewer plant. Mr. Williams said that the temperature module went out on the effluent totalizer, which caused it to be inaccurate and was the cause for low flow returns to the sewer plant. Jon Bickford asked if that caused it to not measure correctly. Mr. Williams said that the unit was not correctly measuring the flow. Mr. Williams said that the device was calibrated three times in the last year, which is only required once by the State, but they noticed the fluctuations in the

unit and every time they calibrated it, it was a little off, but was brought back and read correctly. Mr. Williams said that they used three different companies just to get an opinion, but it really did not surface until the temperature module completely went out. Dave McCorquodale asked about the recirculation system, and asked if they are not running water by it once and then piping it back up to run again. Mr. Williams said that is not happening because it is pulling up the chlorine basin and then returning it back to the basin, so it is not reading the same water multiple times. Mr. Williams advised that the recirculation system is taking out the same water that it is putting back in to the system.

Mayor Jones asked about Well 4, and whether they were not running it. Mr. Williams advised that they were trying to run Well 2 more to gear up for the repair needed at Water Plant 3. Mr. Williams said that Well 4 has also been pushed back a little because there was a time where they wanted to maintain the remaining permit, but since then it has increased. Mr. Williams said that when they deal with the Entergy problem and do the control wire repair the Water Plant will need to go down for 48 hours, and they want to make sure that they could take that Water Plant down without causing an emergency situation. Mayor Jones asked to confirm that they have, as of yet, found the real balance. Mr. Williams said that once they get this problem with Entergy fixed, they can find a good balance with power consumption.

Mayor Jones asked if any progress had been made with Entergy. Mr. Williams advised that Entergy has installed a power quality meter at the plant. Mr. Chris Roznovsky, City Engineer, advised that Entergy had installed the power quality meter, and one of the issues that has made it take a little bit longer, is that currently Plant 2 is offline to make some repairs. Mr. Roznovsky said that the City did not want the data while the plant is not running to determine if they are receiving enough power. Mr. Roznovsky said that their plant should be online by the end of the week, so that they can run it and make sure that they have good data. Mr. Roznovsky said that Entergy will look at the report in order to make any modifications they need. Rebecca Huss asked Mr. Yates if he had written that letter to the PUC. Mr. Yates advised that he had not written the letter and added that the issue on FM 149 turned out not to be an Entergy issue, so they were just down to the Well 2 issue, and he has that letter drafted but he has not sent it, as of yet.

Mr. Williams advised that John Champagne had asked him to look into how much the City had paid for no power issues at the last meeting. Mr. Williams said that he looked that information up and since August of 2014 it totals about \$9,000. John Champagne asked if the invoice had been drawn up. Mr. Williams said no, the invoice had not been prepared, and said that number was just their charges, they also need to get the outsourced costs. John Champagne said that they needed to get all the charges and send an invoice. Mr. Yates said that he will talk to them.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky said that they are still finalizing the Joint Mobility Study and they expect to have the draft to City Staff and the County representatives next week. Mr. Roznovsky said that he expects to have the Wastewater Treatment Plants Permit Renewals back shortly because there have been no updates.

The Kroger project is now substantially complete and they expect to hold the final inspection in the next couple of weeks. Jon Bickford asked if Kroger had a different open date. Mr. Roznovsky said that they have not heard any updates on the opening other than what they have said August of 2017.

Mr. Roznovsky advised that the Pizza Shack extension is underway and the contractor has moved on site as of last week and will be beginning work. The Shoppes at Montgomery Feasibility Report is being prepared and will have it for the next meeting.

Mr. Roznovsky stated that they are proceeding with the Buffalo Springs Drive Bridge repair design and getting coordination between the grant administrator and FEMA. Rebecca Huss asked if any thought had been given to the stuff that Mr. Lefevre had talked about in terms of diverting water from that particular location. Mr. Ed Shackelford, City Engineer, said that he owed him a phone call and conversation. Rebecca Huss said that in theory, if the City were to have less water coming there, would there be a substantial difference in the price or the structure of what is being proposed now versus what might be feasible. Mr. Shackelford said he has been rereading some of the minutes from the last meeting, he understood what Mr. Lefevre was suggesting that there might be some reduction in cost for the drop manholes, but there might be added cost in diverting water

off of the right of way and through private property and into the canal, which is what he needs to talk to Mr. Lefevre about. Mr. Shackelford said that what they took into account was only water that was going to be in the public right of way, not what was coming off of private property. Mr. Shackelford said that they looked at a worst case scenario than the 100 year rainfall. Mr. Shackelford said that only the water that fell onto the right of way was going to go through the drop manholes, and everything else that might occur on private property, like what did occur last year. Mayor Jones asked if the water was flowing ditch to ditch downhill it will be handled. Rebecca Huss said that they had a lot of sheeting and all of that water came from private property, the amount of road and right of way surface, percentage wise of the total area that drained into that is a pretty small amount. Rebecca Huss said that they are relying on property to be developed and for them to provide the diversion. Mr. Shackelford said that was correct. Rebecca Huss said that in some ways Mr. Shackelford's plans, while very good for 100 years, don't quite cover what happened. Mr. Shackelford said that otherwise the City is spending a significant amount of money to collect water for an interim period that will ultimately be addressed through private development, so they were trying to be cognizant of the City's budget. Rebecca Huss said that basically it almost does not matter whether there is another outlet for water being diverted across that private property because that is not in the numbers that they used to calculate how big the drops had to be. Mr. Shackelford said that to answer Rebecca Huss' question, if a like event occurred after this is built, yes there would still be sheeting off the private property coming down the road, but because of how they are proposing to construct the slope paving, it would not be undermined and push out into the canal like it did last time. Mayor Jones asked if they were still on schedule with the project. Mr. Roznovsky said that they were still on schedule. Rebecca Huss asked about the mobility schedule for the bridge. Mr. Shackelford said that even though he was not present at the last meeting, he got the message loud and clear. Mr. Shackelford said that they have also conveyed the message to the engineers in our company that are working on the project.

Mr. Roznovsky advised that there was nothing new to report on the Water Distribution System Analysis and Master Plan Capital Projects, including the 12-inch water line across the bridge and the GST Backfill. Rebecca Huss asked Mr. Yates about the GST Backfill, and asked if this was no longer an important project, and stated that the pressure on the west side of town is still an issue and it has been a year since Jones and Carter prepared the

plans. Mr. Yates advised that they are probably ready for that project, partially because the Texas Water Development Board ("TWDB"), but also because the City has enough money to do the project now. Mayor Jones asked if the loan from the TWDB was imminent, like within 30-60 days, so they could start the engineering. Mr. Yates said that was correct and he needed to meet with the City Engineers to prepare a flow chart, because they will take the funds in portions as the project is ready. Mr. Yates said that they are essentially ready for all the projects and will have the funds for them.

Mayor Jones asked what Mr. Roznovsky felt was the second most important, ready project. Mr. Roznovsky said that the GST Backfill Line is not a TWDB Project, but the waterline to get to Water Plant 2 and then replacing lines along SH 105 and FM 149 is on the list, along with Water Plant 3 improvements. Mayor Jones asked about the GST Backfill Project. Mr. Roznovsky said that the GST Backfill Project will not be paid for out of the TWDB funds that is a separate project. Mr. Roznovsky advised that the engineering for the project is complete and approved, and just needs to go out for bids and then construction. Mayor Jones asked for information regarding the GST Backfill cost. Mr. Shackelford said that he thought the total was about \$130,000 - \$135,000. Mayor Jones confirmed that project was not part of the TWDB loan. Mr. Yates said that was correct, but now the City has enough money because of the rate increase to do that project. Mayor Jones asked if the water line across the Buffalo Crossing Bridge was in the TWDB funds. Mr. Roznovsky said that it was not. Mr. Yates said that as they do the bridge work that is when the water line will be replaced. Mayor Jones asked if the repair of the bridge will include the water line. Mr. Yates said that it would not, but it will be part of the bid and construction project and they will have to pay for it out of a different pocket, so to speak.

Mr. Roznovsky said that last month there was a discussion regarding what the drainage review procedure consisted of, so he has included that information in his report. Mr. Roznovsky said that it is based on the Montgomery County Drainage Criteria, or TxDOT criteria, and the City Engineer reviews to make sure the proposed development does not impede the natural flow of service water from adjacent private properties, altering the natural flow in grave quantities that result from the predevelopment, to make sure that they do not put an excess strain on the system. Rebecca Huss commented on the fact that if they are relying on development to divert water sheeting over the land that would normally

end up in our drainage ditch, would leading to Buffalo Springs Drive be going contra to that if they make them create something that pushes the water. Mr. Roznovsky said that the water is making its way down to the channel, and what was included in one of the plans was some predevelopment plans for some of the properties were already including taking water away from the bridge as part of the plans. Rebecca Huss said if there is a drainage easement, then presumably development can use that easement, even if it involves moving water in a way that it had not moved before. Mr. Roznovsky said that was correct. Mr. Roznovsky said that the final review would be whether the development would exceed capacity. Mr. Roznovsky said that with each plan set, the developer is required to submit a drainage plan and a statement from their engineer saying that they have performed an analysis and here is the analysis showing that their development condition meets the criteria of the Montgomery County Drainage Criteria, and therefore the City.

Mr. Roznovsky advised that they had received the revised plans for the Buffalo Springs Shopping Center, Phase II, which will be returned to the developer soon. The Longview Miniature Golf Course is evaluating their options of revising the site layout. Mr. Roznovsky said that the Villas of Mia Lago, Section Two is on the agenda tonight. Town Creek Storage has submitted their final plans and they have identified minor comments to be addressed, so they are recommending conditional approval. Rebecca Huss asked when they expect to start the project after they pay their bills to the City for their water leak. Mr. Roznovsky said that he did not know what their construction schedule was, but they are pushing hard to get it approved. KENROC and Lake Creek Village, Section 3 have submitted plans for review, which they are reviewing. The Montgomery Retail Center, on the northeast corner of SH 105 and FM 2854 have submitted plans for a revision to their driveway and a request for a sign and light pole encroachment agreement, which is on the Agenda tonight.

Mr. Roznovsky advised that Lone Star Bend and Lone Star Parkway Extensions have final plans that have been submitted to Montgomery County on March 14, 2017. Mr. Roznovsky said that they are still going back and forth with the County regarding final comments. Mayor Jones asked if there was any idea when Montgomery County will pull the trigger. Mr. Roznovsky said that they are ready to go out for bid on Lone Star Parkway next month, and proceed with construction contracts in the next 90 days.

Mr. Roznovsky said that the West Side at the Park had a follow up inspection on March 20, 2017 but there are still punch list items that need to be addressed. Mr. Roznovsky said that regarding Heritage Place Medical Center they are continuing to work with Montgomery County Precinct One to obtain a price to perform the required modifications to Houston Street. Mayor Jones asked what the most recent conversation with Commissioner Meador was. Mr. Roznovsky said that the County was open to the idea, they just requested additional information, which they provided specifications and an exhibit that was prepared by the developer's engineer to show what improvements they were asking the County to review and to come up with a price and approval. Rebecca Huss asked if the City was going to let the developer just use asphalt on the whole thing, even though they had said that on Shepherd it had to have a concrete improvement for the apron turnout onto SH 105. Mr. Shackelford said that right now, that is the way it is proposed as all asphalt. Rebecca Huss said that is not the City saying that this is what we need, that is saying this is the cheapest way to get it done. Mr. Shackelford said that was correct. Rebecca Huss asked whether City Council had approved MEDC's payment, and she is assuming that the developer will come to the City for the rest of the money. Mr. Yates said that none of that has happened yet, he is waiting on the County Commissioner's review and total price.

Mr. Roznovsky advised that they are still waiting for the developer to pay their deposit for their Feasibility Study. Mr. Roznovsky advised that the TWDB Funding applications totaling \$2,820,000 by the City were approved on March 9, 2017 and the expected closing date is June 30, 2017.

Mr. Roznovsky advised that they continue to host a weekly operations conference call with representatives from Gulf Utility Service, Inc. and City staff. John Champagne asked if the conference calls were still productive. Mr. Roznovsky said that they were good because they get the information they need and it is very helpful to keep everyone on the same page.

H. Financial Report – Mr. Yates presented the report to City Council, in the absence of the Financial Consultant, Mrs. Cathy Branco. Mr. Yates advised that the General Fund - \$191,018 to the good due to lower expenses. Jon Bickford asked if the expenses were

lower because we are not getting something done that we wanted to get done. Mr. Yates said that it was due to the department heads watching their budget.

Rebecca Huss asked about the Utility Fund where it looks like tap fees for February were \$61,000, which is more than half of what we perceived for the entire year, and asked whether that was correct. Mr. Yates said that was correct. Mr. Muckleroy advised that Heritage Medical paid \$17,000 for their water tap. Mr. Yates said that McCoy's also paid their water tap fees. Mr. Yates said that MEDC funds had \$18,970 and was doing quite well. Mr. Yates said that the General Fund revenues were just about what was expected for this year.

Jon Bickford asked if they had planned not to get any tax benefit from Kroger until June or July. Mr. Yates said that last month City Council decided not to amend the budget because he had \$160,000 revenue and \$148,000 worth of expenses, plus they saved \$12,000 from not having to conduct the election. Rebecca Huss said that basically it is just a wash, with a \$12,000 gap.

Mayor Jones reminded City Council that the MEDC numbers look good right now, but MEDC is obligated for a large amount for the Pizza Shack water line and McCoy's sewer line, which is coming up soon.

Dave McCorquodale moved to accept the Departmental Reports as submitted. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action to postpone adoption of the Ordinances approving the sale of Certificates of Obligation to the Texas Water Development Board to a meeting to be held on April 11, 2017 at 6:00 p.m. at City Hall.

Jon Bickford moved to postpone the adoption of the ordinances until April 11, 2017 at 6:00 p.m. John Champagne seconded the motion, the motion carried unanimously. (5-0)

7. Consideration and possible action regarding approval of Town Creek Storage Construction Plans and Final Plat.

Mr. Roznovsky advised that they are recommending conditional approval of the plans and final plat subject to the final comments being addressed. Mr. Roznovsky advised that this was presented to the Planning and Zoning Commission last night and they approved the action.

Jon Bickford asked what type of access will there be to the property off of SH 105. Mr. Roznovsky said that there was no access off of SH 105, the access is off of the side street that goes to the Athletic Complex.

Rebecca Huss asked if a bill had been sent to Mr. Cheatham to account for the $\frac{3}{4}$ of a million gallons of water that he wasted, and the overtime and repairs to fix the water line that his contractor broke to get the sewage tap. Mr. Yates said that he did send the invoice. Rebecca Huss asked if the City had received that money. Mr. Yates said that they had not. Rebecca Huss said that she did not see why they should treat this any differently than they have done on Mr. Bowen's items. Rebecca Huss said that she believed that Mr. Cheatham also had some money that the City had paid out and not received in for professional services related to his developments, which is on the spreadsheet regarding the missing \$150,000. Mr. Yates said that was correct.

Rebecca Huss moved to table this item until they received payment for all three of Mr. Cheatham's outstanding items before they engage in additional items.

Dave McCorquodale asked if that was a legal action, and asked if there was anything that would prevent the City from doing that action. Mr. Foerster said that he did not have a problem with the motion, but he would have to look into the information a little further. Rebecca Huss said that is essentially what they have done to Mr. Bowen where the City said they were not willing to move forward on the next project until the issues from the previous project had been satisfied. Mayor Jones asked if Mr. Cheatham owned the property. Mr. Roznovsky advised that Mr. Cheatham does own the property.

Jon Bickford seconded the motion, and stated that he felt that they needed to get this matter resolved and be fair and hold everybody to the same standard.

Mr. Shackelford asked if City Council would consider approving this subject to payment being received, so that if it is received they can move forward with their business. Jon Bickford and John Champagne stated that they agreed with that idea and felt that it was reasonable.

Rebecca Huss moved to modify her motion subject to the comments made by the City Engineer, to approve the construction plans and final plat subject to Mr. Cheatham paying for his water loss and overtime bill, as well as the escrow account overages. Jon Bickford seconded the motion carried unanimously. (5-0)

Mayor Jones said that the property where the storage buildings will be going on had a modified drainage situation and asked if that would be acceptable, other than they did not ask permission. Mr. Roznovsky said that it was submitted showing what is there and what modifications are proposed, they provided additional modifications to protect the property from eroding, but everything that they have submitted is provided in the drainage criteria. Mr. Roznovsky advised that there is a public easement and the property owner has agreed to maintain that piece of property.

8. Consideration and possible action regarding approval of a Development Agreement by and between the City of Montgomery and the Villas of Mia Lago, Section 2.

Mr. Yates advised that Mr. Liberatore is the owner and subdivider of the property, who is asking for a development agreement basically in return for the dedication of the right of way of Lone Star Bend, which would not require a payback if it was a normal subdivision. Mr. Yates said that he thinks the City is interested in getting Lone Star Bend put in because of its connection to Bois D'Arc Road, which connects Walden to the City and makes it much easier to connect to the City.

Mr. Yates advised that the calculation in the agreement was based on \$2.10 per square foot times 97,550 square feet of Lone Star Bend Road, which equals \$204,855. Mr. Yates said that the return would be based on 50% of the maintenance and operation taxes due to be paid back to him, up to a maximum of \$204,855 based upon the assessed value. Mr. Yates said that Mr. Liberatore has asked to lengthen the term because the term in this agreement is for 10 years,

and he has asked for either 15 or 20 years because the increased time will allow him to develop the property and give him more of a chance to get back the balance of the \$204,855.

Mr. Yates said that he did not find anything in the records about a previous commitment of Mr. Liberatore to dedicate Lone Star Bend all the way to Bois d'Arc Road. Mr. Yates said that he did find several plats that were not signed showing Lone Star Bend going all the way over to Bois d'Arc Road. Mr. Yates said that the Section 1 plat for the property does not go all the way over to Bois d'Arc Road. Mr. Yates said that he would like to point out that the County Commissioner is willing and ready to pay for the cost of Lone Star Bend connection to Bois d'Arc Road and that amount is approximately \$800,000. Mr. Yates said that if City Council were not to approve the Development Agreement, he supposed an option would be that the City could condemn the property and pay whatever the going rate is at that time.

Rebecca Huss said that she had a couple of comments because Mr. Lefevre told her that five or six years ago when that property was annexed, it was annexed conditionally on the fact that the roadway was to be dedicated as a roadway easement. Mr. Yates said that it was not in the annexation agreement or the minutes. Rebecca Huss said the other comment was \$2.10 per square foot of land for something that does not really go anywhere, unless it is a road, is kind of rich, because she believed that someone else had recently sold land for 20 to 30 cents per square foot. Rebecca Huss said that she can't believe that this is brought up at City Council at the last minute where nobody has had a chance to get any information. Rebecca Huss said that the record keeping had been lax, so there is a possibility that further time will enable them to locate the records that they need to prove that the land is already dedicated. Rebecca Huss said that she just could not see paying a premium just to get a road done. Mr. Yates said that there might be an agreement about a past intention to dedicate the land, but he said that he could be safe in saying that it has not been previously dedicated to the City. Rebecca Huss said that the intention to dedicate should be about the same, because if he has always planned on having a road there he needs it there to develop the other pieces of property. Mayor Jones said that the developer does not need the road. Mr. Yates said that it is the choice of the owner as to whether he wants to subdivide the property at this time. Mayor Jones said that the owner has already moved his plat and everything assuming that the road is going in, because he had to subdivide his property for the road, so somebody intended for that road to go in, which he believed that they all did. Mayor Jones said that he did not know if the road had been agreed

upon, but there was no doubt that the existence of that road benefits the City of Montgomery and \$2.10 a square foot is not a lot for property, and it is not residential property. Rebecca Huss said that it was residential property. Mayor Jones said that on SH 105 they are getting \$20 per square foot.

Mr. Liberatore advised that several years back when they had originally designed the development, Section One had a similar agreement in place that was executed with the City. Mr. Liberatore said that he always thought that Section Two would carry on with that same agreement. They brought in the assisted living facility and annexed into the City the Estates of Mia Lago, the Villas of Mia Lago and then the assisted living facility. Mr. Liberatore said that he believed the sale price for the assisted living facility was \$4 to \$6 per foot. Mr. Liberatore said that he tries to buy land every day and the going price in Montgomery is about \$30,000 to \$50,000 per acre. Mr. Liberatore said that as far as the design of the road, when they originally designed it he thought it would be accepted under the same agreement as a Section Two, with the reimbursement for the first section, which they have never really collected any money as of today. The agreement was that Mr. Liberatore would put the road through and annex into the City, and put the utilities and road in under that agreement. Mr. Liberatore said that he always thought that this would be an extension of that original agreement. Mayor Jones asked if the original agreement was all based on the commercial frontage. Mr. Liberatore said that it was based on the commercial frontage. Mayor Jones asked if they were able to find the 380 Agreement for Section One. Mr. Yates said that it was all included in the one agreement.

Mayor Jones asked if this proposed agreement included Section One and Two. Mr. Yates advised that it only included Section Two. Mr. Liberatore said that he always thought the agreement would cover both sections of the development. Mayor Jones asked how many homes are expected to be built in Section Two. Mr. Liberatore advised that they were looking at 42 homes and they are ready to start on them.

Rebecca Huss said that she feels like they need to have numbers and see the actual agreement, and she feels really blindsided by the fact that they do not have any of the facts. Like the Mayor stated that 50 percent of the M&O and 40 houses is not even going to come close to this. Jon Bickford said that if it does not come close then they will pay it longer. Mayor Jones said that

the agreement would either have an amount to be paid or the time, whichever comes first, correct. Mr. Yates said that was correct. Jon Bickford asked what the assessment of M&O would be on 40 houses. Mr. Liberatore said it would be at \$300,000 for one house. Mr. Yates said that it would be roughly \$4,000 per year for one home. Jon Bickford asked if that would be the half. Mr. Yates said that would be the half of the M&O. Jon Bickford asked why Mr. Liberatore would be asking for this much money, because there is no way that they would get to that amount with \$4,000 per house. Mr. Liberatore said that it was just a number. Jon Bickford said that he wanted to make it a different number to reflect the actual amount. Rebecca Huss said that they could just make it easy and say that we will waive, for a certain portion, the plus 200 percent tap fee to cover, so it is not cash or a legal agreement. Mr. Shackelford said that for 15 years that number is \$113,000 based on 42 homes at \$300,000 each at a 12 cent/per \$100 valuation tax rate. Mr. Roznovsky said that for 15 years the half amount that they are coming up with is \$113,000. Mr. Shackelford said that was equivalent to a \$50,000 per acre price for the land. Rebecca Huss said that was assuming that the City would be willing to go to 15 years. Jon Bickford said that he still did not know why the amount in the agreement is set so high makes him wonder what is going on. Mr. Liberatore said that it was just a budget that the engineers came up with that was for the water and sewer extension. Rebecca Huss said that she was sort of unwilling to go with 100 percent of this if there was, at some point, a hand shake deal as part of the annexation.

Mr. Liberatore said that there was an original agreement that if he annexed and brought the assisted living in, and put the road through then dedicated the road to go to Bois d'Arc Road. Mr. Liberatore said that the original agreement is the same as what you have before you, this one is just worded differently and for a different reason. The reason that the City and he agreed on the first agreement was because they were annexing, dedicating the road to connect from Lone Star Parkway to Bois d'Arc Road, dedicating the land to do that, and the sale of the assisted living facility and annexing it into the City, building the facility and him paying for the utilities to go to the facility. Rebecca Huss said that the original agreement did include Bois d'Arc Road or the extension. Mr. Liberatore said that was correct. Mayor Jones said that has been on the table since the beginning and he did not know where it was in writing. Mr. Yates said that he thought the answer is because there is nothing to say that Mr. Liberatore has to plat his property right now. Mr. Yates said Mr. Liberatore came to the City originally to plat the property and the City was anxious to work with him. Jon Bickford asked to clarify

that what Mr. Yates was advising was this number is \$204,000, so it is \$204,000 worth of future credits if you do this platting and subdividing and do the agreement now versus waiting until it is convenient. So the City is willing to pay a particular amount of money to make it convenient for the City versus waiting for when it would be convenient for Mr. Liberatore. Mr. Yates said that was correct, and he would also throw in that the County is ready to spend the money on the extension. Jon Bickford said that there was no problem that the City is going to get access to the property. Mr. Liberatore said that they were dedicating that in the plat. Mayor Jones said that the road was important to the corner of Lone Star Parkway and SH 105. Mayor Jones said that road is important to the County as part of their Mobility Plan, and the City's part of the Mobility Plan. Mayor Jones said that these are not real big numbers in the agreement, and the developer has to perform to get them by getting the homes built and people in the homes. Jon Bickford said that having the road there will help to alleviate traffic snarls, which will help the City.

Jon Bickford moved to go forward with the proposal that they offer \$100,000 for a period of ten (10) years.

Jon Bickford amended his motion to allow Mr. Liberatore a return payment from the City based on the additional assessed property value of his subdivision, that we pay 50% percent of the maintenance and operations taxes due back to him up to a maximum of \$100,000, or twelve (12) years, whichever happens first, based upon the additional assessed property value increased in the area of the Villas of Mia Lago, Section Two. John Champagne seconded the motion.

Discussion: Mayor Jones stated that when entering into this type of agreement, Mr. Liberatore would have to agree or disagree as to whether the City was in his ballpark. Mr. Liberatore said that the amount was about \$100,000 less than the original agreement, which was based on utility extensions not on a land dedication, but he was in agreement with it, if it will move the project forward and they can get their plat approved and start construction.

Mayor Jones asked if they know the status of the original agreement, and whether it is null and void. Mr. Yates said that it was not null and void. Mayor Jones asked if it was functioning. Mr. Yates said that it was functioning. Mr. Foerster said that he thought that it expired in 2018 if he recalled correctly.

Mr. Liberatore said that they have not pursued or did the accounting with the City to get any reimbursements on it as of yet. Mr. Liberatore said that they thought Section Two would come on a little bit quicker and they would start them all at the same time. Mayor Jones said that the only thing that Mr. Liberatore had to claim was the assisted living facility. Mr. Liberatore said that the first agreement was to annex those sections into the City, and that he would put the existing Lone Star Bend Road in, which included about 3,000 foot of road. Mr. Liberatore said that the original agreement was for the utility extension, annexation into the City for the assisted living, to bring the utilities to the project and the road.

Rebecca Huss asked to clarify that this will get the City to the full amount that they need to connect Lone Star Bend and Bois d'Arc Road. Mr. Liberatore said that was correct, except for a one foot strip at the end of the road, which is a one foot reserve that the County has acquired. Mr. Roznovsky said that was the strip of land that the County purchased and is in the process of being recorded. Mr. Liberatore said that when Bowen owned that land they purchased it from Steve Bowen, and they had a way to exit out of the property. The property was platted was Grand View and had a landscape reserve on the east side and west side with a 60 foot strip to get out. Mr. Liberatore said that they had redesigned and shifted the road further east into a one foot landscape reserve that he is willing to swap. Jon Bickford stated that the bottom line was the City does not need any more property, we have everything we need and they can get to that street.

The motion carried unanimously. (5-0)

9. Consideration and possible action regarding approval of Villas of Mia Lago, Section 2 Construction Plans and Final Plat.

Mr. Roznovsky said that the plat and plans have been submitted, and the plans are subject to the recording information from Montgomery County, so they are recommending approval subject to receiving the recording information. Jon Bickford asked to clarify that there were no shrinking lots. Mr. Roznovsky said that there were 42 lots.

John Champagne moved to conditionally approve the final plat and construction plans upon all the comments being addressed. Jon Bickford seconded the motion.

Discussion: Rebecca Huss said just to be clear, they already did provide variances for lot sizes. Mr. Roznovsky said that was correct, and that there were no additional variances.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding approval of a Sign and Light Pole Encroachment Agreement by and between the City of Montgomery and the Montgomery Retail Center.

Mr. Roznovsky presented the information to City Council. Mr. Roznovsky said that City required the developer to enter into an encroachment agreement for the placement of signs and a light pole within the City's easement. Mr. Roznovsky said that they have reviewed the agreement and offer no objection to the agreement as proposed. Mr. Roznovsky said that it puts the risk of any damage to the facilities that they would have to repair or replace, etc., so all the property owners of the City would not be responsible for making repairs to signs if they are damaged.

Jon Bickford asked why they need the encroachment agreement and asked if it was located near the street. Mr. Roznovsky said that this is located along SH 105, and will have two signs proposed at the light post in an existing City easement. Jon Bickford said that he was trying to figure out if those signs and light pole closer to SH 105 than a sign such as where the Kroger sign is located, and are they going to look strange because they are going to stick out and be in a funny location. Mr. Shackelford said the signs would not look strange because the City easement is just north or outside the State right of way, so these signs and poles are within the easement that are close to the State right of way. Jon Bickford asked whether we did a similar agreement for Kroger. Mr. Shackelford said that they did not have that 26 foot easement at that location. Jon Bickford asked if this will put their signs approximately the same place as the Kroger signs. Jon Bickford said that the Kroger sign is not far from their retaining wall. Mr. Yates said that it was about 10 feet back from the edge of their property line. Jon Bickford said that if the City has to dig them up and they break, then it is on them to repair them. Mr. Shackelford said that was correct, and it also gives the City the right to review their drawings.

Mayor Jones asked if their items will be on top of City stuff. Mr. Roznovsky said that where it is proposed, there are utilities in the area. Jon Bickford asked what kind of utilities are underneath. Mr. Shackelford said that it would be the Pizza Shack water and sewer lines. Mr. Shackelford said that to give City Council some idea, there is six (6) feet of clearance from the bottom of their sign to the top of our sanitary sewer line and the waterline is out of the way.

Jon Bickford moved to approve the Sign and Light Pole Encroachment Agreement by and between the City of Montgomery and the Montgomery Retail Center, for the north east corner of Lone Star Parkway and SH 105. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

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. (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.

No comments were made.

ADJOURN

Jon Bickford moved to adjourn the meeting at 8:05 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Submitted by: Susan Hensley
Susan Hensley, City Secretary

Date Approved: 04/25/17

Kirk Jones
Mayor Kirk Jones

