

MINUTES OF REGULAR MEETING

March 14, 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: Jon Bickford City Council, Place # 1
 John Champagne, Jr. City Council, Place # 2
 T.J. Wilkerson City Council, Place # 3
 Dave McCorquodale City Council, Place # 5

Absent: Rebecca Huss City Council, Place # 4

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. 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 addressed City Council, advising that he had two items that he wanted to discuss. One item was regarding the Putt Putt Golf. Mr. LeFevre said that they have been very concerned with

the parking and they did not want a lot of gravel parking lots in the City. Mr. LeFevre said that he and Mr. Long had met with Mr. Yates and Mr. Muckleroy today and had a very constructive meeting. Mr. LeFevre said that there had been some misinformation given to the City by an engineer, and as soon as the corrected information was received by the City it was a pretty good path forward. Mr. LeFevre said that he knew the City did not want to get involved, and said that he was willing to give Mr. Long a six month waiver to get things organized. Mr. LeFevre said that they could draw up a legal agreement but they did not have a lot of enforceability. Mr. LeFevre said that it would be whole lot easier if the City could help with the matter, because he felt it was in the City's best interest to make sure that they did not get dust everywhere in the City.

The second item that Mr. LeFevre discussed was regarding the Buffalo Springs Bridge, and said that he knows that it has been very frustrating for everyone, and he felt that Waterstone has been disenfranchised for almost a year now, and they are frustrated. Mr. LeFevre said that he knew that the City Engineer has probably done a very good thing in getting the FEMA grant, and at this point he would really like to urge the City to do a request for proposals for other engineers. Mr. LeFevre said that they did have land that they could give to the City for an easement to bypass all the drainage from the downtown area to past the library. Mr. LeFevre said that they could give the easements and right of way for that drainage all to go east of the bridge, which would take a lot of pressure off of the bridge. Mr. LeFevre said that option would be far less expensive than a bunch of drop structures that would be on the side of the bridge. Mr. LeFevre said that there was a limited right of way at the bridge and he thought that was part of the calculation of the bridge being so expensive to repair, was the drop structures. Mr. LeFevre said that he felt it would not hurt for the City to go out and get a fresh set of eyes that would submit a proposal from other engineers that could save \$400,000 - \$600,000 and that money could be put to use for other drainage matters. Mr. LeFevre said that hopefully the City will consider that suggestion and thanked City Council.

CONSENT AGENDA:

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

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

CONSIDERATION AND POSSIBLE ACTION:

2. Consideration and possible action regarding a Utility and Economic Feasibility Study for KENROC Development.

Mr. Chris Roznovsky, City Engineer, presented the information to City Council. Mr. Roznovsky stated that this is proposed to be a commercial development with six reserves, which was calculated into their analysis, and they have requested a water capacity of 40,000 gallons per day. Mr. Roznovsky said that based on what the City has already allocated for other previously approved developments, including this, the City is up to 97% percent of the City's ultimate existing capacity. Mr. Roznovsky said based on timelines of ongoing development, he does not expect the City to reach 97% percent of capacity for another 2-3 years.

Mr. Roznovsky said that the City is also going through the Texas Water Development Board to install additional facilities at the water plants to meet projected growth and demands. Mr. Roznovsky said those funds have been approved.

Mayor Jones asked what they had in their development that would require 40,000 per day, because that seemed high to him. Mr. Roznovsky said that it was just based off of their land use all being large commercial, so if their land use is not all large commercial they might end up using less. Mr. Roznovsky said that their land plan did call for a few restaurant sites, but if it is retail, the usage may be less.

Mr. Roznovsky advised that no utility extensions will be necessary, the property will be served off of the Pizza Shack extension that is currently under construction. A portion of the onsite utilities will be public utilities and located within public easements that are paid for and designed by the development.

Mr. Roznovsky stated that regarding the Sanitary Sewer Collection System they are estimating 30,000 gallons a day, and the City has sufficient capacity to serve them, based

on that number. Mr. Roznovsky said that the TWDB funding that was approved last week also includes upsizing the capacity of that Lift Station No. 1 that serves the property.

Mr. Roznovsky said that there was a gravity sanitary line that runs to the Lift Station that is getting near its capacity, which is included in the City's Capital Improvement Plan to address.

Mr. Roznovsky advised that regarding the development costs, their cost is \$485,000 based on their projected use and capacity that they are buying from the system. Jon Bickford asked if that was for a period of time or is that the initial impact. Mr. Roznovsky said that is their additional impact for what their cost is for their additional use of the system, and their pro rata share.

Mr. Roznovsky said that regarding their financial feasibility their estimated taxable revenue coming in from them annually, based on a \$10 million dollar valuation, provided by the developer at full buildout is about \$49,000.

Jon Bickford asked if there had been any consideration regarding rainwater impact. Mr. Roznovsky advised that the impacts of drainage was a requirement for the drainage study.

Dave McCorquodale asked how the State looked at development going into the 100-year Flood Plain, and asked how they would handle it. Mr. Roznovsky said that what they are doing in the Flood Plain is being mitigated as well as onsite detention. Dave McCorquodale said that their site plan is very conceptual, and when he looks at the land cover, it looks like the vast majority of that would be a paved area up to and including much of the 100-year Flood Plain. Mayor Jones asked if they could build parking lots in the Flood Plain. Mr. Roznovsky said that they could build the parking lots, because they are planning to place fill on the site, and all their onsite drainage is being detained in a detention pond on the site plans behind anchor retail in the back.

Mayor Jones asked if it was time to start thinking about water storage. Mr. Yates said that the short answer to the question was the TWDB work that the City will be doing at Well No. 3 and Well No. 2 should buy the City several more years of capacity. Mayor Jones said that the City has the volume and storage of water, they just can't get it out to the service. Mr. Yates said that was correct, but that is what the TWDB funds are for.

John Champagne asked to clarify that the hydro tank capacity maintains pressure in the system and currently it is too small. Mr. Roznovsky said that it meets the City's current demands, but based on projected development it is too small. Mayor Jones asked to confirm that the City did not need to be looking at elevated storage or another well. Mr. Yates said that was correct, plus the additional lines that will be laid, such as, the line connecting Jim's Hardware to the line west of Cedar Brake Park will increase the pressure. Mr. Yates said that the work they are going to be doing at Well No. 2 should increase the capacity of that well and the pressure on the west side of town.

Dave McCorquodale moved to accept this Utility and Economic Feasibility Study for KENROC Development. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

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

Mr. Yates advised that Mr. LeFevre had stated that Section 301 of the City Ordinance that conflicts with the Development Agreement would not be enforced by the City, however, he stated under the circumstances, he did not see where there would be anything that would prohibit the City from enforcing this current requirement for commercial parking.

John Champagne said that his question was, as he read the email from Mr. LeFevre, it seemed like, in the beginning, he had no jurisdiction. Mr. Foerster stated, for clarification, that the City, when the 2004 LeFevre Development Agreement was executed, did not require paving on commercial property. Mr. Foerster said that the current City ordinance

does require paving, but the question then is does the LeFevre Development Agreement require the City to be bound by Ordinances adopted in 2004. Mr. Foerster said that his reading of the Section 305 of the Development Agreement, indicates that the City is not bound by the 2004 Ordinance, because the Development Agreement, in Section 305, provides that "all private improvements must conform to City Ordinances." Mr. Foerster said that since this is a private improvement, he felt that the City has the option to granting or not granting the variance, and the option of deciding whether or not they place conditions on the action, such as, a temporary certificate of occupancy for a certain number of months, maybe even a performance bond. Mr. Foerster said that the performance bond might be cost prohibitive for the property owner.

Jon Bickford said that, in his mind, the challenge is if the parking lot is not paved now, and something happens with the business, then the parking lot will not be paved. John Champagne said that they could set parameters. Mr. Yates said that they could include in their motion to grant a six month variance that would grant a temporary certificate of occupancy, which could be withdrawn if the parking lot was not paved in six months. Jon Bickford asked what would happen if they started a business, things do not go the way they thought they would go, and by six months they have used all the cash, they can't pave the parking lot and they go out of business. Jon Bickford asked how the City can ensure that after six months the parking lot gets paved. Mr. Foerster said the only thing the City could do to make sure that was done, would be to have a performance bond. Mr. Foerster said that he did not know how much the paving was going to cost, but it will probably cost at least a few thousand for a performance bond. Mayor Jones said that he knew the City had a requirement for paving, and he thinks that is a good requirement, but the property that the City owns, at Fernland Park, is not paved, and the property north of the Community is not paved. Mayor Jones said that it would not be the end of the world if what Jon Bickford said happened and the parking lot was not paved.

John Champagne said, a couple of things, to use those two examples that the Mayor used is not apples and apples. The parking area north of the Community Center is rarely used and won't generate dust. The Fernland lot is mostly grass and does not generate a lot of

dust. John Champagne said that they are assuming that this enterprise will generate a lot of activity, parking and movement in the parking area. John Champagne said that his deal was, in this whole discussion, has there been a revenue forecast for the possible six month variance and as to where the money might come from. Mr. Yates said that he had only appeared before the Montgomery EDC Board.

John Champagne asked if the owner has presented a revenue forecast. Mr. Yates said that there was a revenue forecast presented at the Montgomery EDC Meeting. John Champagne said that obviously Montgomery EDC said it was adequate. Mr. Yates said that was correct. Mayor Jones said that they were not talking parking lots at the time. Mr. Yates said that the Montgomery EDC felt strongly enough to put \$15,000 toward the utilities for the project. John Champagne asked what the projected revenue would be for six months. Jon Bickford asked how much it is going to cost to pave the parking lot. Mr. Jason Long, owner, advised that it will cost \$30,000 to pave the parking lot. Mr. Long stated that he felt very confident that even before the six months is up, the parking lot will be paved. Mr. Long said that it was in the businesses best interest to get the lot paved, not only for the ordinance restriction, but they want customers to come and not have to deal with dust at their feet and kicking up onto cars.

Jon Bickford said that the restriction was in place when Mr. Long bought the property. Mr. Long said that at the time when he was going through construction for the site development, he was not aware of the City's Ordinance for paving the parking lot. Mr. Long said that when he created the numbers for the bank, this item was left out, because nobody caught it until it got to Jones and Carter's review. At that time, he went back to the bank to request the increase in funds for the parking lot and the bank refused the request several times.

Mayor Jones asked if the project goes belly up in four months, someone still owns the property, so somebody would still be liable to pay the amount. John Champagne said that would be the bank. Dave McCorquodale said that he did not think that the City would be granting a variance tied to the deed of the property, as much as the business itself. Jon

Bickford said that his only concern is that they have to be mindful and watch out for the City.

John Champagne moved to approve the variance for six months, with a temporary certificate of occupancy granted stating that if the parking lot is not paved in that time period the business will lose its certificate of occupancy, and a dust control agent, satisfactory to the City Engineer be placed on the gravel area when completed, and prior to business. T.J. Wilkerson seconded the motion.

Discussion: Dave McCorquodale said that he would like to use this as an example, as it feeds into some of the drainage issues that they are facing with the Buffalo Springs Bridge, and said if they can find a solution to impervious cover that is suitable for the City, which would reduce the impact of storm water runoff and would control dust and is suitable for the patrons of a business, he would be all ears. Mayor Jones said that if it would be affordable too. Dave McCorquodale said that if the owner came back in six months and said he has the data and a solution to back it up to say this is why I don't need to put asphalt or concrete down, that I can use this particular product and it is going to solve all of the issues that the pavement solved, he would be open to it.

John Champagne said that they could amend the motion, that in six months, if in fact, Mr. Jason Long comes back and gives the data that Dave McCorquodale indicates, that they would consider looking at it.

Jon Bickford said that he would like to propose one more amendment that he would be supportive of a variance extension, but it would make him feel better if there was some way that Mr. Long could deposit \$30,000 over time, within the six months, in an account, in case something does happen. John Champagne asked if Jon Bickford was thinking \$5,000 per month. Jon Bickford said maybe, or \$2,000 the first month and then build up. Mayor Jones said that was pretty tough for a startup business. Jon Bickford said that was part of starting up a business, and their job is to protect the City. Mayor Jones asked Jon Bickford if he was amending the motion. Jon Bickford said that he was asking to amend

the motion and throwing it out for conversation, otherwise, yes he would amend the motion that they collect up to \$30,000 in escrow in some way or another, prior to, and leading up to the six months. Jon Bickford said that he was not saying that it needed to be paid all at one lump sum, and then make the decision at the end of the six months.

The City Secretary, Susan Hensley, asked for clarification as to whether Jon Bickford was going to add that to the impervious cover consideration. Jon Bickford said that he was comfortable with that, if there is another way to solve the problem and they figure it out, give them the money back or whatever, in other words use the money for whatever and if he wants to pave it early, then pave it early. Jon Bickford said that all he wanted to try and do is cover the City in the event that something happens.

Mayor Jones said he wanted to address Dave McCorquodale's information, in his opinion, he did not think that it needed to be an amendment to the motion. Dave McCorquodale said that his information was just a point of discussion. Mayor Jones said that Jon Bickford is proposing an amendment to the motion. Jon Bickford said that was correct. Mayor Jones said that they were going to treat that amendment as a separate situation.

Ms. Hensley advised that John Champagne had also amended his motion. John Champagne said that he was not ready to unamend his motion. Mayor Jones said that John Champagne can propose an amendment. John Champagne advised that the Mayor was just going to do away with his amendment as suggested by Dave McCorquodale. Mayor Jones asked if they still wanted that information as part of the motion. John Champagne said that he might. Mayor Jones said that he did not know that John Champagne had amended the motion and that the amendment requires a second. Mayor Jones asked if there was a second to John Champagne's amendment. Ms. Hensley advised that there was no second. John Champagne pulled his amendment to the motion.

Mayor Jones asked to confirm that Jon Bickford was proposing an amendment to the motion. Jon Bickford stated "yes." Mayor Jones asked Jon Bickford to state the amendment.

Jon Bickford moved to amend the motion that the City collect up to \$30,000 over the six months in an escrow account to cover the cost of the paving in the even that it is not done within the period of time, grant the variance and the temporary certificate of occupancy for six months, and collect the \$30,000 in reasonable deposits on or before the six month deadline, they either have the parking lot or have an alternate solution.

Discussion: Dave McCorquodale said that he would like to ask a question. John Champagne stated that the amendment needed to be approved first. Mayor Jones said that if they want to continue to discuss the matter, they will need to get a second on the motion. Mayor Jones said if they don't want to talk about it and they don't get a second, the amendment dies for lack of second.

Dave McCorquodale said that he could not second the motion without asking his question. Mayor Jones told him to ask the question. Dave McCorquodale asked if a business would be able to get that parking lot funded any other way in six months, such as, going to a bank after six months and show them the books and ask for a loan to pave the parking lot. Dave McCorquodale said if the bank would say yes, then he did not see the need to have an escrow account if it is possible for the business to show what they have done in the last six months and ask for a loan. Dave McCorquodale said that if that is the only way to pay for a parking lot then he would second the motion. Jon Bickford said that he was not a bank professional, but he would offer that if the revenues are higher than your expenses, then a bank will be more than happy to lend you money, but if the expenses are higher than the revenue the bank probably won't loan you any more money. Jon Bickford said that the point is, you could get to the end of six months and not have any money to pave the parking lot, are they going to shut the business down, that would make a bad problem worse. Mayor Jones said that they are really trying to put two hammers on the developer. Jon Bickford said that he was not trying to put two hammers on them, he is trying to undo one and make sure that the City is covered. Dave Mc McCorquodale said that he is not seconding the amendment to the motion.

Mayor Jones asked if there was a second to the amendment to the motion. No second to the motion was stated. Mayor Jones said that the amendment to the motion dies for lack of second.

Mayor Jones said that they are now proceeding to the motion, which as stated, would allow six months with a temporary certificate of occupancy. Ms. Hensley asked if they were still doing the impervious cover. Mayor Jones said if Mr. Long shows up with that City Council will discuss that with him. Mayor Jones said that the original motion was seconded and asked if there was any further discussion or amendments. Mayor Jones then called for the vote.

The motion carried with 3-Ayes and 1-Nay vote by Jon Bickford.

4. Consideration and possible action regarding the City Engineer's Report on Buffalo Springs Road Bridge Repair.

Mr. Roznovsky presented his report to City Council. Mr. Roznovsky stated that the April and May events last year caused the Buffalo Springs Bridge to be closed. Shortly after the closure, the City had a structural engineering firm perform an analysis of the Bridge. Mr. Roznovsky said that they evaluated various options for stabilizing the slopes and protecting the bridge abutment under the bridge. Mr. Roznovsky said that the option that they are recommending is concrete slope paving, like is there today, but would be designed differently and constructed with better methods. This would also include a concrete bulkhead, instead of wood, to allow additional strength because all of the concrete slope paving was resting on the wood bulkhead. Concrete is also proposed to line the channel to provide additional strength and prevent erosion. Mr. Roznovsky said that everything will be dug out, lined and tied together. Jon Bickford asked if the channel would be lined just under the bridge. Mr. Roznovsky said that was correct, it would only be lined with concrete under the bridge, within the City's right of way.

Mr. Roznovsky said that one thing that they have not discussed is the gabion baskets, that are metal and wire baskets filled with stone that were being proposed in lieu of slope paving. Mr. Roznovsky said that the reason they did not recommend the baskets was because the original cost for the baskets \$560,000 on top of the other estimated costs. Mr. Roznovsky said that between that and the issue of the water coming down the street and going over the top and the gabions had more of a chance to suffer damage with that type of flow, which are the reasons that they are not recommending the gabion baskets.

Mr. Roznovsky said that he also wanted to note, as Mr. LeFevre mentioned, the City may need to get additional right of way, such as easements adjacent to the Bridge to construct these improvements. Once they get into design and make sure that everything fits, they will know at that point what needs to be done.

Mr. Roznovsky said that they are also recommending that the City consider all future developments on the south side be required not to outfall their storm sewer into the roadside ditch of Buffalo Springs. Mr. Roznovsky said that they will work together with Mr. LeFevre to obtain the easements.

Mayor Jones clarified that what Mr. Roznovsky is saying is that future developments up the hill are going to be required to channel their water otherwise and will actually improve the water flow in the ditch. Mr. Roznovsky said that was correct. Mr. Roznovsky said that what they are proposing is as those properties are developed, they be required to obtain and route their storm sewer away from the roadside ditch.

Mayor Jones asked if the sizing of the inlets at the drop off to the canal is based on the reduction, or on full flow. Mr. Roznovsky said that the sizing that they have proposed is based on the 100-year frequency in an area within the right of way of the roads, within the City's property.

Jon Bickford asked to clarify that Mr. Roznovsky is saying that the plan for the ditch covers out to the right of ways, and the water will go to the right of ways, and the other overflows

will catch what. Mr. Roznovsky said that what the storm sewer and drop structures are sized based on the 100-year rainfall.

Dave McCorquodale asked if they had looked at the 25-year flood event just for the right of way. Mr. Roznovsky said they had and that the sizing of it was such that when you are working with the pipes and the structures that they could go up to the 100-year event without significant additional costs.

Jon Bickford asked if after they get all of this work done and they have the same event they had last year, would the same thing happen. Mr. Roznovsky said that the slope paving that had been installed before did not meet the recommended thicknesses, did not have proper reinforcement and was on a wooden bulkhead without proper toe walls to support it to prevent erosion. Jon Bickford said that he would ask the question another way, if they make the improvements that are being recommended, and they have a similar event like last year, what happens to all that water, and will they see any of that water come over the street. Mr. Roznovsky said that without the improvements or development on the south side, the water will still be coming over the streets, because there would be nothing done to address that at all. Mr. Roznovsky said that at the Bridge, a portion of that water will go on to the storm sewer, if they have another event like they did last year, that will be exceeded and there will be an overflow to allow that water to go safely around the Bridge versus the washout that occurred previously. Jon Bickford said that what they are saying, in the future when the property is built out, that water should never get to the Bridge. Mr. Roznovsky said that water would be rerouted to go out to the channel at different locations.

Jon Bickford asked what risk they run of washout beyond the concrete areas of the Bridge, with an event like last year. Mr. Roznovsky said that they are proposing that they have an overflow near the inlet structures so when they are full there is a proper overflow for the water to be handled to go down to the drainage channel. Jon Bickford said that based on what Mr. LeFevre said, has Mr. Roznovsky connected with Mr. LeFevre, because he offered right of way to route the water. Mr. Roznovsky said that they have not put together

the design, but once they get to that point they will be able to sit down with Mr. Bowen and Mr. LeFevre.

John Champagne then asked whether they would have to have a considerable amount of concrete at the base of that Bridge. Mr. Roznovsky said that there will be a 12-inch thick slab along the base, and then additional 3-4 foot walls on each side to hold it into place. John Champagne then concluded by asking about the time line, as follows:

- March 14 – Approve the project as proposed, authorize bidding of project by City Council;
- March 14 - May 1 - Engineer prepares detailed plans/specs, produces bid package;
- May 1 – have project under way of bidding, expecting FEMA funds soon; Mr. Yates clarified that he thought the time frame to receive the funds would be two months from today.
- June 1 – have FEMA and Disaster Relief grants in hand, award bid;
- July 1 – have work beginning to repair with a 60-day completion schedule; and
- September – Open Bridge for public use.

John Champagne asked if that schedule was conceivable. Mr. Roznovsky said that it was a tight schedule, and said that realistically they could probably have construction starting near the first of August or end of July. Mr. Roznovsky said that the construction process is about three months.

Jon Bickford asked whether FEMA has confirmed that the City is going to get the money or are we still waiting to find out if we are going to get it. Mr. Yates said that all they are waiting on is the approval of the project budget, which you have before you tonight, so yes they will approve the budget. Jon Bickford asked whether FEMA needed two months from the time they receive the information from the City.

John Champagne moved to approve the project as outlined tonight, along with the time table set before City Council adding another 30 days, based on the City Engineers best guesstimate. John Champagne said that he would like the time table included in the motion. Mayor Jones said that if they include it in the motion, and they need to change it, City

Council will have to change it. John Champagne said that he wanted the time table in the motion. John Champagne said that he was tired of jacking around with this Bridge. Mayor Jones said that he was too. John Champagne said that if they can't hold to a timeline, then they need to get out of the business. Mayor Jones said that there are things that are beyond the City's control. John Champagne said that was government speaking and they just need to get it done. Jon Bickford asked if the real timeline was predicated on the City receiving the funding from FEMA. Mr. Roznovsky said that they can proceed with design and have it ready to go and bid.

John Champagne said that he had a motion on the floor and he wants the time table in the motion, based on the City Engineer's estimate, and he wants to get it done, so he was asking for a second. Dave McCorquodale seconded the motion.

Discussion: Jon Bickford asked if there was something that they can do to expedite, at least the design work, because he knows that they might be at risk for that, if they don't get the FEMA funding, but he felt that they need to see what they cost will be to get the design stated before they get the FEMA funding is received. Mr. Yates said that if they approve the motion the way that it was stated, that is the instructions telling the City Engineer to start working on the design. Jon Bickford asked to confirm that nothing else is waiting, they have everything else going as fast as they can. Mr. Roznovsky said that was correct, they will get started with the design if the City is of the position that they are ready to release the contractor.

John Champagne said that if they don't meet the time table, every faction of this process will be evaluated to see why we didn't. Mr. Roznovsky said that they will keep the City updated on the progress. Mayor Jones said that he would recommend that if they feel that something has happened to not meet the time table, will you come to City Council and bring it up in a hurry. Mr. Roznovsky said that he would do that.

Dave McCorquodale said that he would like to point out that \$1.36 million for this project to take care of water in the right of way, and everybody is on board with the fact that the land area that falls outside of the right of way is much, much larger and is going to have a lot more runoff than what we are dealing with here. So everyone has got to have eyes wide

open on these non-right of way solutions, in terms of what those developers are going to be looking at. Dave Mc McCorquodale said that was his only point, was to point that out. John Champagne said that he gets what Dave McCorquodale is saying, but they have to do something. Jon Bickford said that they have got to make sure that by Ordinance, or whatever they have to do, that the rules are in place that says if they start digging they route that water. Mr. Yates said that they are all required to provide a drainage plan for their development, which has to be approved. Mayor Jones said that most likely, it is because it is undeveloped, because they would not have sent it into the City's ditch anyway. Mr. Roznovsky said that coming down from the tracts it does a zig zag across Buffalo Springs, and that stream was exceeded, and the culverts under Buffalo Springs were exceeded and once those were exceeded it filled up the roadside ditches and started running down the street. Mr. Roznovsky said that the developers are already planning on taking some of the drainage away through other existing ponds on the east side of the Bridge.

Dave McCorquodale asked whether they needed to do any other steps to make sure that everyone knows that the solution is that it is not coming to the right of way ditches, because he did not want to end up in a situation where people are saying that they were not told about what is being done, they don't have anywhere to send the water, they are out of money and they will need a variance. Dave McCorquodale asked if they needed anything else on paper to make sure that does not happen. Mr. Yates said that he did not believe so, because every piece of property will have to do a drainage plan and it would be caught at that time.

Jon Bickford said that he had a proposal that staff just make sure that the City is covered and maybe by the next City Council meeting they could have a report. Jon Bickford said if Mr. Yates felt that the City was covered great, but if not, just give them a heads up.

T.J. Wilkerson asked if they were going to clear the Bridge and everything else downstream of the Bridge. Mr. Roznovsky said that it would be just what is immediately adjacent to the Bridge, this project does not include dredging downstream or upstream. This project is the removal of debris and the buildup within the City's right of way or project limits depending on the final design for the project. T.J. Wilkerson asked about anybody doing anything upstream. John Champagne said that would be up to them. Mayor Jones said

that Mr. LeFevre was doing something. Mr. Roznovsky said that Mr. LeFevre has been looking at multiple options.

The motion carried unanimously. (4-0)

5. Discussion regarding Buffalo Springs Bridge Repair – Amy Font

Mrs. Font addressed City Council stating that they have been told since last year that the City was going to get this fixed and start in November, then January, then March and now it is past the summer. Mrs. Font said that she does not see anyone down on the Bridge doing anything. She does not know what the issue is to try to fix the Bridge, but after listening to Mr. Roznovsky, she understands a little bit more, but she has an issue with this. They were hoping to be up and running by the summer, which is what they were told last year, but it has moved from month to month. Mrs. Font said that here they are almost one year later and they are still down. Mrs. Font said that she felt that City Council should put a time limit on this project, and she felt that needs to be done. They can't dredge the canal until the City fixes the Bridge, Mr. LeFevre dredges his portion comes down, they clean out under the Bridge, and then Mr. Bowen comes and dredges them out. Mrs. Font said that she is the 10th house down from the Bridge and she is buried in mud and they can't see the light of day. Mrs. Font said that every time she turns around it is being delayed because the engineering is not right, or new engineering has taken over, she felt that it needs to get done.

Mrs. Font said that her other question is the side road that they are taking, does not have any marker, so when you take a left onto the road, you are running into the other people's lanes and there are potholes everywhere. Mrs. Font asked how much long that street is going to be able take all of the traffic. Mrs. Font asked if the City has looked into that street. Mrs. Font said that she wants the bridge fixed by summer, and that is not happening. She would like to get her backyard dredged so that she can get her boat down and they can get back up and running. Mrs. Font said that she is taking a hit on the value of her home because they are in a disaster.

Mrs. Font said that she was sorry, but that was what she had to say to City Council. Mayor Jones thanked Mrs. Font for her information.

6. Consideration and possible action regarding City property tax exemptions.

Mr. Yates advised that this was a request from the tax appraiser, asking whether City Council wants to give a homestead exemption to over 65 years of age or a disability exemption. Mr. Yates advised that the exemptions currently in place are \$6,000 for over 65 years of age, and \$12,000 for those who are disabled. Mr. Yates advised that the effect from the exemptions was about \$2,300 - \$2,400 less received in property taxes. Mr. Yates stated that the \$6,000 exemption equates to \$24.93, and there are 80 people over 65 years of age so that would result in \$1,994.00 reduction this year. For the \$12,000 disabled exemption, there are 7 disabled people which would be \$349.00 reduction.

Jon Bickford asked if the City was aware of any hardships that they are causing on this rate. John Champagne said that at \$2,400 per year. Jon Bickford said that he was asking if there were any hardships for the citizens. John Champagne said that at an inflation rate that is approaching 10 percent, if you used the 1980 Consumer Price Index, which is what it is, yes, he would say it is a hardship for people on fixed incomes.

John Champagne moved to raise the over 65 exemption from \$6,000 to \$10,000, and from \$12,000 to \$15,000 for disabled exemption.

Jon Bickford asked if Mr. Yates had any sort of numbers for the exemptions. Mr. Yates said that it would be \$3,300 for over 65 exemption, and \$436 for the disabled.

Mayor Jones said there is a motion on the floor and asked for a second.

Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding placing a fee on Professional Photographers at Fernland Historic Park.

Mr. Yates said that this was a proposal to assess a \$100 per year photography permit for use at Fernland Historic Park. Mr. Yates said that he understood that the issue of charging photographers to use Fernland Historic Park has been a long desire, but he also understood that the problem was how the payment would be made. Mr. Yates stated that recent developments in the City's website and how they collect funds at City Hall has allowed people to pay without coming to City Hall, which will eliminate the concern of the docents handling money for fear of crime. Mr. Yates said that they have about 58 photographers that normally use Fernland, so the proposal is that they would contact the photographers and ask them to obtain a permit. Mr. Yates said that for right now he would like to make this a voluntary deal, at least until he and the City Secretary can prepare the Fee Ordinance that will be part of the new City Code, which will also have a penalty clause.

Mayor Jones asked to clarify that it would be for professional photographers, not just the average person taking pictures. Mr. Yates said that was correct. Mr. Yates said that the docents feel that they will get a lot of voluntary participation. John Champagne said that \$100 per year was nothing, and they are charging the customer anyway.

Mayor Jones asked if the fees charged would go into the general fund or would it be designated specifically to Fernland for maintenance. Mr. Yates said that it would go into the general fund. John Champagne said that he would like the funds earmarked to the City's operational expense for Fernland. Mr. Yates said that they can figure that into their budget. Jon Bickford asked to confirm that the City would have control over the funds, not the Board. Mr. Yates said that was correct. Jon Bickford said that the buildings still needed to be painted at Fernland, which he had mentioned at a meeting six months ago. Mayor Jones said that the buildings had been painted.

John Champagne asked why they had settled on \$100. Mrs. Dana Bickford, who is the lead docent at Fernland Historic Park, stated that the figure was just an arbitrary figure. John Champagne said that he was recommending an arbitrary figure of \$250. Mrs. Bickford said that she felt that they would pay the fee. John Champagne said that he knew they would pay the fee.

John Champagne moved to approve \$250 as the annual permit fee for professional photographers at Fernland Historic Park. Dave McCorquodale seconded the motion.

Discussion: Jon Bickford asked if he had any obligation to recuse himself from voting on things at Fernland. Mr. Foerster said that this had nothing to do with the docents.

John Champagne said that another thing that he might add to his motion, asking how hard it would be to establish on a tablet running a credit card to pay for these permits at Fernland. Mayor Jones said that it was easy. John Champagne said he wanted to do that, we do not need cash, just run the credit card. Jon Bickford said that they had talked before about not allowing the docents to handle cash. Mayor Jones said then they could get a gift shop in the Park.

John Champagne asked to amend his motion to include having the ability to make credit card payments at Fernland Historical Park. Mayor Jones asked if that really needed to be part of the motion, or whether they could just direct staff to handle the credit card payments. John Champagne said he was good with that. John Champagne said that he did not want the process hindered by not being able to make a transaction at Fernland. Mr. Yates said that he understood what they wanted.

T. J. Wilkerson asked if this would only be at Fernland and not at the rest of the parks. T.J. Wilkerson said if a graduation class goes out there will the photographers have to pay to take the pictures. Mayor Jones said that they obtain a permit for one year and they can take as many pictures as they want. T.J. Wilkerson asked if they had 50 photographers taking kids photos, each one would have to pay their \$250. John Champagne said they better. Mr. Yates said that each photographer would pay their annual fee, one time per year. Dave McCorquodale said that the photographers that are out there are probably not one time photographers, they know their areas. Mayor Jones asked about Memory Park. Mr. Yates said that they do not have anyway of watching Memory Park.

John Champagne said that he has photos of damages where people have removed items from the Park and vandalized Memory Park. John Champagne said that Memory Park needs to be closed at dark. Jon Bickford said that it would be hard to close without a fence around the Park. John Champagne said that you post a sign and then you patrol the area. Jon Bickford said that one of the docents and he had chased two kids out of Memory Park yesterday on the way to dinner, because they were riding their mini bikes up and down the steps that the Boy Scouts installed.

The motion carried unanimously. (4-0)

Mayor Jones said that they might make lanyards, so the photographers can wear them so that they are easily identifiable.

8. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION OF THE CITY OF MONTGOMERY REGARDING OPPOSITION TO S.B. 2 AND REQUESTING SENATOR ROBERT NICHOLS TO VOTE AGAINST THE MEASURE.

Jon Bickford moved to adopt a Resolution of the City of Montgomery regarding opposition to S.B. 2 and requesting Senator Robert Nichols to vote against the measure.

John Champagne asked for an explanation of what the Resolution is providing. Jon Bickford said that the State is trying to say that you can't raise your taxes by more than 4 percent without having an election. Jon Bickford said that the City has never had an issue with this and they have done an amazing job controlling costs. John Champagne said that the State needs to get out of our business.

T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Mayor Jones said that the City does not normally get involved in taking a stand, officially, like this on House Bills, but since this one was really close to home, they felt they would put it on the agenda and make it official.

9. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE REGARDING LANDSCAPING REQUIREMENTS FOR ALL ZONING DISTRICTS IN THE CITY OF MONTGOMERY, TEXAS; PROVIDING DEFINITIONS, PURPOSE, APPLICABILITY, VARIANCES, AND LANDSCAPE PLAN APPROVAL; PROVIDING SEVERABILITY CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PUBLICATION.

Mr. Yates advised that this ordinance was reviewed and recommended for approval to the City Council by the Planning and Zoning Commission. Mr. Yates said that the Ordinance in Section 78-185 defines “landscape area” as a combination of living plants, such as, grass, groundcover, shrubs, vines, hedges and trees and other nonliving landscape materials, such as, rocks, pebbles, sand, mulch, walls, fences or other decorative paving materials. Mr. Yates said that the article applies to all newly-platted residential lots and any parcel over 5-acres. The Ordinance, Section 78-188, will require a landscape plan approval, to be submitted at the same time as the construction plans are approved in advance of the Final Plat. Section 78-187 provides the rules and basis for a variance request.

Mr. Yates said that a question that came up was how they could design an area, with multiple property owners, such as, specific landscaping along SH 105 to separate the parking lots, but the Ordinance only requires 12% percent landscaping for the commercial property and they might want to put the landscaping in the back of their property or a design motif, so a sentence was added to the Ordinance last week. The sentence states that the Planning and Zoning Commission could adopt a thematic landscape plan for certain areas of the City that dictate private plans. In other words, if the City does not have a plan for an area, it is whatever they walk in the door with that the Planning and Zoning Commission approves. Mr. Yates said that this will put the onus on the Planning and Zoning

Commission if they want to have a specific plan. Dave McCorquodale asked if that would be like a descriptive set of instructions for a particular area, like thoroughfares, and state this is what the City desires, and what would be the next step. Mr. Yates said that he might have to get a street scape land designer to meet with the Planning and Zoning Commission to come up with some designs and ideas for areas, such as, Lone Star Parkway, and areas that would be enhanced by a landscape plan. Then each person that would come into the City would be able to look at the plan and know that is what they would be planning toward. Mr. Yates said that the plan would have to be designed to allow for the 12% percent.

Mayor Jones said that he was not in favor of the government telling him how to landscape things, not minding them telling him that he has to do it to a degree, but he did not want them telling him how to do it, but that was just him. Mr. Yates said that he understood what the Mayor was saying, but it is just a wise use of expenditure to get a unified look, but he did not think that everyone had to have a certain type of vegetation, but to get a more unified look for an area.

Dave McCorquodale said that there are certain criteria that are required to design anything, but in this case, landscaping along a particular roadway with a certain right of way and a certain speed, and certain number of entrances and exits onto that road, to him, having a cohesive thought process down the length of Lone Star Parkway to him makes sense. Then you get into the downtown portion, and what urban design means. Dave McCorquodale said that awesome spaces in the public sector never just happen, they are never by accident, and they are always on purpose and thought through. Dave McCorquodale said that, to him, this is a great first foot in and it makes sense. Dave McCorquodale stated that he did not want to tell every resident in Montgomery what he wanted planted in their front yard, and he did not think that is what this does, it goes toward the commercial and developers standpoint. John Champagne said that an existing residence would be covered by a POA, if they have one, and if they don't, unless their grass gets to a certain height and becomes a health problem, then you leave them alone.

Mayor Jones said that what he is understanding is that the City could influence how the roadside looks, not SH 105 because it is pretty well done, but Lone Star Parkway is a new canvass. Dave McCorquodale said that a business is grandfathered, and if they make a 15 percent change they get that one time, and then if they go over the 15 percent then they have to conform to the Landscape Ordinance. Dave McCorquodale said that if a local developer comes in, such as Heritage Place, and said that he could argue all day as to why someone would plant a 60 foot tall tree under a 20 foot tall power line. If you look at the work that Mr. Cheatham did, he wants the place to look nice, but you look at somebody out of Ohio building a grocery store, that is going to move on to the next town, they have very little interest in making this feel like a really special place. Dave McCorquodale said that he feels like this Ordinance will fill in this gap, and said that he did not feel that this was a heavy handed thing. Mayor Jones asked if Dave McCorquodale felt that this Ordinance would have got a more desirable situation at Kroger. Dave McCorquodale said he did, and said that it would not have given you what they have in some of the grocery stores in Austin, but they would have at least been subject to the scrutiny of the Planning and Zoning Commission. Mr. Yates said that he thought that Kroger would have looked a lot different if they would have had to go through the landscape design.

Mayor Jones asked if the Planning and Zoning Commission would approve every commercial landscape plan. Mr. Yates said that yes, they would review them along with the tree and lighting plans and development plan. Mayor Jones said that they have to be careful that they don't try to enforce things that don't exist, because if they say they want a Magnolia Tree and it is not listed. Mr. Yates said that is the beauty of this Ordinance, because to get any type of unified look, if they don't give them a goal and design to work toward, it will be so haphazard that they could have several different looks. Mr. Yates said that the plans would be approved by the Planning and Zoning Commission, and then City Council before they would finalize a plan that the Commission would require people to use.

Dave McCorquodale said that they had looked up the criteria for the Historical District that encapsulated the feel that the Ordinance was conveying and helped to illustrate how the

process worked. Mayor Jones said that Dave McCorquodale is suggesting that they need to write or come up with a design criteria and guidelines for the Ordinance. Dave McCorquodale said that he would be interested in looking at a list of people that the City was going to use to work on the design criteria. Mayor Jones asked Dave McCorquodale if he would look at doing it. Dave McCorquodale said that he was not an expert but he would like to see who they are going to use.

Mayor Jones stated that Mr. Yates has pushed through some things that they have been talking about for years, such as, tree and landscape ordinance and said that he is making it happen.

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

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

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY OF 14.5003 ACRES OF LAND, MORE OR LESS, IN THE JOHN H. CORNER SURVEY, ABSTRACT 8, TO THE CITY OF MONTGOMERY, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; ADOPTING AN ANNEXATION SERVICE PLAN FOR SAID ANNEXATION; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE.

Mayor Jones said that they have had a couple of Public Hearings on this and they have seen the Economic and Feasibility Study. Dave McCorquodale asked if the initial zoning

classification would come up in the near future. Mr. Yates said that there will be a Public Hearing on that this month.

Dave McCorquodale moved to adopt the Annexation Ordinance for the 14.5003 acre parcel as presented.

Jon Bickford asked if they were comfortable with the water and sewer impacts. Dave McCorquodale said that he was comfortable if the City Engineer was comfortable.

Dave McCorquodale asked if the developer had given any indication on their anticipated timeline for the development. Mr. Roznovsky said that they had not, but they are moving forward with their plans and plat, and stated that the City's capacity today averages 300,000 gallons, so there is still a lot of development to occur to get to that point, and that point will be raised again in the near future. Jon Bickford said that if they bless this project, they can get underway in six months. Jon Bickford asked if everyone was comfortable with where the runoff is going to go. Mayor Jones said yes, it will go to Stewart Creek. Dave McCorquodale said that was a bit of a sore spot for him, because it seems like around here we are all "the engineer said to just dump it into the Creek." Mr. Roznovsky said that they had to do a drainage impact analysis that their development was not going to affect downstream. The developer has to mitigate for the Flood Plain and the detention is part of their impact on the drainage. Dave McCorquodale said that if Kroger had zero detention required, so how could a downstream parcel need detention if a much larger upstream tract did not. Mr. Roznovsky said that Kroger did not have to provide detention, per their agreement. Dave McCorquodale said that was per the Agreement with Montgomery County, not the City. Mr. Roznovsky said that he believed that part of the Development Agreement that is tied to that tract. Mayor Jones said that it came from a Drainage Study by an engineer prior to that. Mr. Roznovsky said that there was a study done on Stewart Creek that said that detention did not have to be done. Mr. Yates said that was approved by the City.

Dave McCorquodale asked if the City could approve drainage plans that would affect downstream outside our City limits. Mayor Jones said that everything affects downstream. Dave McCorquodale said that it was his understanding the whole time that Montgomery County looked at that information. Mr. Yates said that the City uses the County Standards. Mr. Roznovsky said that it was up to the development engineer to provide the drainage study and statement that their development does not have an adverse impact on their neighboring property or downstream property. Dave McCorquodale asked how deep the clay layer is in this area and how far do you have to go to hit sand. Mayor Jones said that it would depend.

Jon Bickford said that he was concerned about turning this loose for development until they understand where the water is going to go, because looking at the elevations, it all runs over to Mia Lago. Mayor Jones said that it runs into the Creek. Mr. Roznovsky said that it runs toward Mia Lago, but they are planning to raise it to drain the other direction. Mr. Roznovsky said that, as Mr. Yates was saying, all this is subject to review, you are not approving their plans for development, and you are approving their annexation. Jon Bickford said that once they annex the property, the City is promising water and sewer. Mayor Jones said that they are as they speak, whether they are here or not, there will be two pipes running in front of them. Jon Bickford said that does not mean that they are providing water and sewer to unannexed property, because that will be an additional load on the watershed. Mayor Jones said that he thinks that will be addressed after the annexation.

T.J. Wilkerson seconded the motion.

Discussion: John Champagne said that once the property is annexed and the development is underway, the City can make them comply with any drainage. Mr. Roznovsky said that prior to approval of their plans and to proceed with construction, they have to have a drainage study submitted and reviewed by the City Engineer. John Champagne said okay. Dave McCorquodale said that where they sit right now, without passing that drainage

impact area or whatever they were looking at before, there is a table from Montgomery County that they have to meet.

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.

11. Convene into Closed Executive Session as authorized by the Texas Open Meetings Act, Sections 551.071 (consultation with attorney), and 551.074 (personnel matters regarding Employment Agreement renewal with the City Administrator).

Mayor Jones convened into Closed Executive Session at 7:47 p.m.

12. Convene into Open Session

Mayor Jones reconvened the Regular Session at 7:57 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

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

Jon Bickford moved that to extend the City Administrator's employment contract for an additional year, with all of the existing benefits and conditions of the contract to stay in place.

John Champagne seconded the motion, the motion carried unanimously. (4-0)

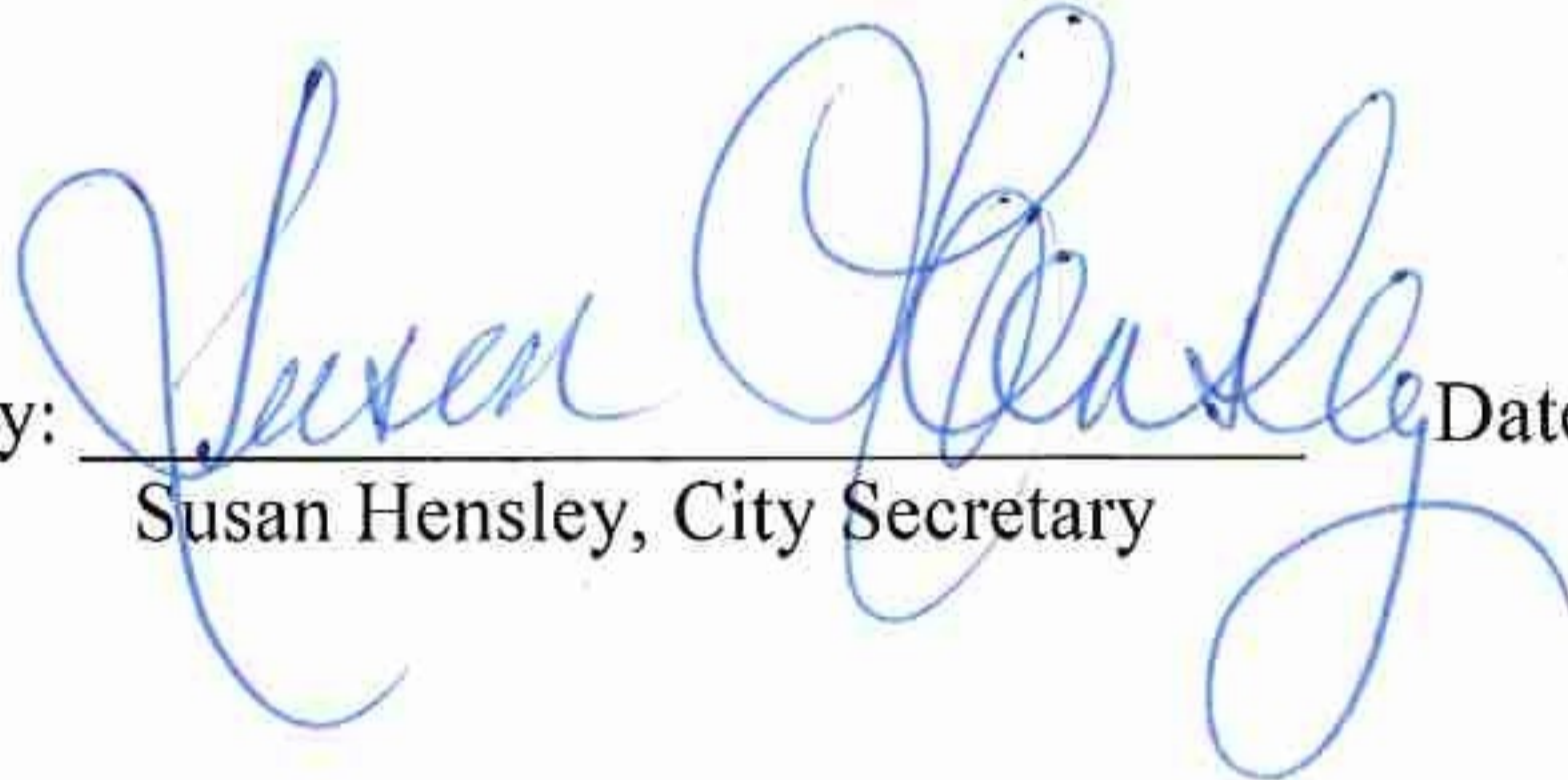
COUNCIL INQUIRY:

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

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:58 p.m. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

03/28/2017



Mayor Kirk Jones

