

MINUTES OF REGULAR MEETING

February 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
 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: Jon Bickford City Council Place # 1

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing:

1. For the purpose of giving all interested persons the right to appear and be heard on the proposed annexation by the City of Montgomery, Texas of the following described land: 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. (Second of two hearings)

Mayor Jones convened the Public Hearing at 6:01 p.m.

Mr. L. A. Washington asked where the property in question was located. Mr. Shackelford, City Engineer, advised that the property was located on the north side of SH 105, between Stewart Creek Road and Lone Star Parkway. Mr. Shackelford said that this was the undeveloped tract between where the northeast corner where Pizza Shack is being built, and is the back northern piece of land. Mr. Shackelford said that there was a front piece of land, approximately 300 feet deep that is already inside the City, and was annexed a year ago.

Mayor Jones asked if there were any other comments to be made and there were no more comments made. Mayor Jones adjourned the Public Hearing at 6:03 p.m.

Reconvene into Regular Session:

Mayor Jones reconvened into Regular Session at 6:03 p.m.

VISITOR/CITIZENS FORUM:

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

Mr. Philip LeFevre said that he wanted to discuss a couple of things, one being Jason Long, who went to the Planning and Zoning Commission last night and asked for a variance on his parking lot. Mr. LeFevre said that they actually have, as part of the HOA, architectural control, so they have a vested interest, because there are other people who bought land there and they want to make sure that they don't get dust from the parking lot.

Mr. LeFevre said that their normal response would be to say no, do not give him a variance, but there are extenuating circumstances here and he personally felt that the Planning and Zoning Commission did the right thing. Mr. LeFevre said that he believed what the Commission said was that they would give Mr. Long six (6) months to use a gravel parking lot, and under the City Engineer's suggestion Mr. Long has to stabilize the parking lot so that there is no dust. Mr. LeFevre said that if Mr. Long does not get the parking lot done in six (6) months, then the City can remove the occupancy permit and basically shut Mr. Long down, and there is a method of enforcement. Mr. LeFevre said that once the HOA gives a variance, they have no method and can't come back after them. Mr. LeFevre said that

he would like some comfort from the City that there is a hammer to get the work done. Mr. LeFevre said that hopefully, when City Council considers the variance, as long as the City retains the hammer to make sure that Mr. Long performs his part.

The second item that Mr. LeFevre, was one of equity, stating that Mr. Long is clearly tight on budget and his project is a little bit out of the box, but he liked that and felt that it was good for the City. Mr. LeFevre said that this will give people something to do and it will be a productive and positive thing. Mr. LeFevre said that he hoped that Mr. Long was very successful. Mr. LeFevre said that he felt that it was behooven on everyone to try and make him successful up to a point, and then it is up to him. Mr. LeFevre said that the City needs to be a good place to do business.

Mr. LeFevre said that he was a little concerned about two things, one, in the past the City has provided MEDC funds for paving, and he knows that they are doing the Cozy Grape, which he felt was a good decision, because the City uses the parking lot for other things as well. Mr. LeFevre said that in this case, the City probably down the line will probably need Mr. Long's parking lot when they do City events, so there is a benefit to having the parking lot done properly. Mr. LeFevre said that he felt the City should consider a consistent policy throughout, realistically if you are going to do the parking lot for one person, you probably need to consider a strategy of how it effects everyone else.

Mr. LeFevre said that the second, and he felt it was the most important, when he built Clepper Street, and put the utilities in, they put in the taps, so there is already a water tap and there should be a tap for the sewer. Mr. LeFevre said there might not be one for the sewer. Mr. LeFevre said that when he and Mr. Muckleroy were at the location, Mr. Muckleroy went down into the manhole and looked, and there was a tap across the road. Mr. LeFevre said that the City's formula is 200% percent of the cost. Mr. LeFevre said the estimates that have come up using Gulf Utilities, and the price that they came up with using the 200% percent was \$27,000, which is just about the cost of his parking lot.

Mr. LeFevre said that if they had done the water, and if they find that they did the sewer, it would be a \$300 job to get someone to connect to the sewer on the other side of the road. Mr. LeFevre said that even if they did not do the sewer, they could get Allen Burney who was the City utility contractor, to probably do it for \$3,500, the Gulf Utility estimate is \$6,500. Mr. LeFevre said that you start to compound the error, \$6,500 times 200% percent you get to an awful lot of money. Mr. LeFevre said that he felt if there was a chance to use an alternative contractor who the City approves of, and if that

contractor has experience with the City it would help the City. Mr. LeFevre said if Gulf Utility is giving outrageous bids, then the City is probably paying outrageous bids, but when you multiply it by 200% percent, and the consumer is really getting stuck. Mr. LeFevre said that if there is an element of competition for some of this work, the City will get well served along with the consumer getting well served. Mr. LeFevre said that he could put in ten (10) sewer taps for \$27,000. John Champagne asked to confirm that they were paying \$6,500 for the tap. Mr. LeFevre said that was the amount of the bid. Rebecca Huss said that Mr. Muckleroy actually went out and got a better bid, so there is a contractor that has the quality and reputation and a lower price who she believes is putting in the tap.

Mayor Jones said that since this was not an action item, they could not discuss the matter. Mr. LeFevre said that he would like the City to review the process and to have a more efficient situation, because it does not do the City any good to have people come in and find it so expensive to open a business. Mr. LeFevre said this particular project should not be \$27,000 to \$30,000, and said that it is being priced to a point that the business might fail.

Mayor Jones asked if this subject needed to be an action item in the future. Mr. Yates said that he is already looking at other possibilities for tap, and in this particular case, he will just review it with Mr. Muckleroy.

Mr. LeFevre said that where Mr. Muckleroy climbed down to check on whether there was a sewer tap, it looked like there was already a tap in place, and the point is that there needs to be some flexibility if there is already a sewer tap.

Mr. Tom Cronin advised that his issue was somewhat minor, and was just a suggestion for the City. Mr. Cronin said that he implored the City, when there is a water issue, there has got to be good communication. Mr. Cronin said that at 5:06 p.m. he called the City and the answering service picked up and he asked them what was going on with the water in the City, because the water had been shut off at three of his businesses. Mr. Cronin said that when he is operating restaurants, he has to make a determination in a very short period of time, because legally he can't operate without water.

Mr. Cronin said that the first lady with the answering service was very nice. Mr. Cronin said that when he called back and he got a really snooty lady that said "I just got here, be patient, I don't know what is going on" and immediately put him on hold. Mr. Cronin said that the City's contractor called to clue

him in. Mr. Cronin said that what he is asking is, whether it is Mr. Muckleroy or somebody with the City, could somebody call the service and let them know what is going on so that the businesses can make a determination on whether they need to close for the evening or if it is only going to be a short period of time. Mr. Cronin asked the City to improve their communication between what is going on with the water department and the answering service, when you have a catastrophic incident like they did this evening.

Rebecca Huss advised Mr. Yates that it might be easy to find a text service as well to provide that information to everyone in the City.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Public Hearing and Regular Meeting held on February 14, 2017.

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

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding adoption of a Proclamation proclaiming March 3, 2017 as Texas-Tennessee Day in Montgomery, Texas.

Mayor Jones read the following Proclamation into the record:

PROCLAMATION

March 3, 2017 Texas-Tennessee Day in Montgomery, Texas

WHEREAS, the City of Montgomery, Texas City Council does hereby recognize and welcome the Historians of Sam Houston to the City of Montgomery; and

WHEREAS, the Texas –Tennessee Historians will be traveling the Independence Trail that includes Huntsville, Conroe and Montgomery; and

WHEREAS, Sam Houston, following in his late father's footsteps, joined the military. His valor in the War of 1812, in which he served under Andrew Jackson, earned him praise and Jackson's approval; and

WHEREAS, Sam Houston, was governor and U.S. Senator of the State of Tennessee, second President of the Republic of Texas, a Governor of the State of Texas, and was one of the most colorful figures of 19th-century America; and

WHEREAS, Sam Houston, through wisdom, valor and dedication was one of the most significant heroes in the Texas fight for independence from Mexico; and

WHEREAS, Sam Houston, did spend time in the City of Montgomery during his travels while conducting business with the Republic of Texas; and

WHEREAS, the City of Montgomery recognizes the shared admiration and respect for Sam Houston throughout the Country, especially in the states of Texas and Tennessee.

NOW, THEREFORE, the Mayor and members of City Council of the City of Montgomery, Texas, do hereby proclaim March 3, 2017 as Texas-Tennessee Day in Montgomery.

Rebecca Huss moved to approve the Proclamation as presented. Dave McCorquodale seconded the motion.

Discussion: John Champagne asked who had requested the Proclamation. Mayor Jones said that it was someone from the Historical Society who is involved in entertaining these visitors.

The motion carried unanimously. (4-0)

4. Consideration and possible action regarding adoption of a Proclamation Recognizing and Honoring the Blinded Veterans Association on its 65th Anniversary of Representing Blinded Veterans and their Families.

Mayor Jones read the following Proclamation into the record:

PROCLAMATION

A PROCLAMATION RECOGNIZING AND HONORING THE BLINDED VETERANS ASSOCIATION ON ITS 65th ANNIVERSARY OF REPRESENTING BLINDED VETERANS AND THEIR FAMILIES

WHEREAS, at 8:45 AM on March 28, 1945, 100 blinded members of the Armed Forces who served in World War II formed the Blind Veterans Association at Avon "Old Farms" Army Convalescent Hospital in Connecticut; and

WHEREAS, the founders of the Blind Veterans Association were a cross-section of heroes and pioneers who not only shaped the rich history, philosophy and knowledge of education and rehabilitation of the blind, but also provided insight into current and future challenges facing the blind and engaged in continual advocacy efforts to ensure that services for all blinded persons would be unique and specialized; and

WHEREAS, the Blinded Veterans Association was approved by Congressional Charter in 1958; and

WHEREAS, many people of the United States recognize March 28 of each year as Blinded Veterans Day,

NOW, THEREFORE, be it proclaimed by the City Council of the City of Montgomery Texas that March 28, 2017 is hereby proclaimed Blind Veterans Day in the City of Montgomery in appreciation for the efforts of the Blinded Veterans Association in improving the rehabilitation services for those who gave their sight in defense of the liberty that America holds so dear.

John Champagne moved to approve the Proclamation as read. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Mr. Jerry Killion, Post Adjutant with the American Legion, Dayton Memorial Post 512, and with the Blinded Veterans Association was present to receive the Proclamation.

Mr. Killion addressed City Council and said that on behalf of the Blinded Veterans Association, he wanted to thank them for recognizing March 28, 2017 as Blinded Veterans Day. Mr. Killion said that he had handed out some information on how what to do when you meet a blind person and how to intervene with that person and information on white cane awareness.

Mr. Killion stated that October was White Cane Awareness Month and they have activities and events in October to educate the public on White Canes. Mr. Killion said that when you see a White Cane, you know that person is blind or visually impaired, as he is. Mr. Killion said that his vision is like looking through a straw.

Mr. Killion stated that more than 130,000 blind or visually impaired veterans now live among us. Each about 6,000 veterans become newly blind or visually impaired, as age related macular degeneration, retinitis pigmentosa, glaucoma and diabetic retinopathy affect their lives more profoundly. In addition, some 13% percent of the evacuated, wounded service members in Iraq and Afghanistan have suffered a serious eye injury of one type or another. The need for educational services, counseling, representation and peer support offered by the Blinded Veterans Association has never been greater. The BVA is committed to locating blinded veterans who need the services that will help them overcome the challenges of blindness so they can lead productive, fulfilling lives. The BVA's leadership, membership and staff are anxious to guide blinded veterans through the rehabilitation process and continue their work to advocate for blinded veterans and their families in the public and private sectors. The BVA fulfills its unique mission by promotion, access to technology and the practical use of the latest research. Mr. Killion then thanked City Council.

5. Consideration and possible action on Department Reports.

- A. Administrator's Report - Mr. Yates presented his report to City Council. Mr. Yates advised that in addition to his regular meetings, he had met with the all the docents from Fernland, which was the first time for them to meet.

Mr. Yates advised that he had coordinated and worked with FEMA and the State Emergency Management staff and the City Engineer regarding FEMA funds. Mr. Yates advised that there were two things that were not included in his written report, one being the landscape ordinance that was presented to the Planning and Zoning Commission last night and they voted to recommend it to City Council. Mr. Yates advised that the landscape ordinance was not on the agenda for tonight because the City Attorney has not reviewed it yet. Mr. Yates then advised that the mobile home park meter issue has been worked out, and he will be sending a letter out to the property owner later this week.

- B. Public Works Report - Mr. Yates presented the report to City Council because Mr. Muckleroy was working on a large water leak. Mr. Yates advised that there were 755 visitors at Fernland and they provided 35 tours.

Rebecca Huss stated that she has been interested in status of the City's sewer, in terms of the amount of water entering it, and rain water entering the system and going through the waste water treatment plant. Rebecca Huss said that she had spoken to Mr. Muckleroy about a couple of options, one that Randy Burleigh is looking at the pumpage data and options. Rebecca Huss asked if there were any funds that could be found either for a subcontractor or specific amounts of televising that might identify issues that they have not been able to find with the smoke testing that has been done to date. Rebecca Huss said that, obviously, when they go through the utility operator section there is another large amount of water that they are still paying for that is entering the system that should be runoff somewhere else. Mr. Yates said that they definitely have the funds available, he just needs to make sure that Mr. Muckleroy and the City Engineer are sure about what they are doing and what will be accomplished. John Champagne said that he would suggest, and it may very well be, to do the smoke test and video again, but prior to making that decision, the City Engineers would weigh in on what would be the best way.

John Champagne said that he had just heard a complaint from a constituent about a complaint on Public Works customer service to our citizens in regard to the water situation, and he would ask that Mr. Yates investigate whomever responded in such an unprofessional way. John Champagne said that the other thing is, he is assuming this water break is a function of the construction that is going on across from City Hall. Mr. Yates said that was correct. John Champagne asked if there would be any recourse in recovering the costs for the water break. Mr. Yates advised that they would be charging them for the repair and the water loss. John Champagne said that was perfect and thanked Mr. Yates.

- C. Police Department Report – Chief James Napolitano presented his report to City Council. Chief Napolitano advised that there were several items that he wanted to bring up, advising that he, Sergeant Lehn, Officer Flores and Lt. Belmares spoke at the Montgomery High School to the criminal justice group. Chief Napolitano said that they had Family Game Night. Chief Napolitano congratulated Sergeant Lehn for her work on the audit of the NCIC and TCIC computer through the State of Texas.

Chief Napolitano said that they have restructured the Police Department to make it a little bit more efficient and get more out of the officers and improve communication. Chief Napolitano congratulated to now Lieutenant Miguel Rosario and officially pinned his Lieutenant bars on him. Chief Napolitano said that they have split the shifts into two so that each shift has a Lieutenant. Chief Napolitano said that they never know when someone on the street is going to use deadly force against the officers on the street and the Lieutenants will have the duty of watching out for the officers on the street. Mayor Jones congratulated Lieutenant Rosario.

- D. Court Department Report – Ms. Rebecca Lehn, Court Administrator, presented her report to City Council. Ms. Lehn said that the warrants will be even higher this month because they are going through a warrant round up. Mayor Jones asked, historically, how much effect does the warrant round up have on the finances. Ms. Lehn said that it has a huge effect. Ms. Lehn said that the City does not do an amnesty program during the warrant round up, like the City of Conroe, where they will dismiss the FTA charges if the person appears and pays the fines, so their numbers are higher. Ms. Lehn said that she would like to see the Judge consider amnesty in the future, because it might help them clear their books. Ms. Lehn said that they will be working with Montgomery County on the warrant roundup this week, beginning tomorrow night.

John Champagne asked what the amnesty program was based on. Ms. Lehn said that the City of Conroe bases theirs on a prosecutor saying that they will make a motion to dismiss their Failure to Appear charges if they appear during the specific time frame and pay their other fines. Ms. Lehn said that while it does bring in revenue and it clears the books, our judge does not offer the amnesty program, so they see a high volume of warrants being paid. Ms. Lehn said that already for this month there is a dramatic increase from the last month, which they will see in the next report.

Rebecca Huss said if she was reading the report right, this is the lowest number of citations in January for the last three years. Ms. Lehn said that was correct. John Champagne congratulated Ms. Lehn on doing a great job on the audit.

- E. Utility/Development Report – Mrs. Ashley Slaughter, Utility Billing Clerk, presented her report to City Council. Mrs. Slaughter said that last month they had a total of 7 new water accounts, with 5 disconnects, so there were only two new activations. Mrs. Slaughter said they had a total of 31 permits totaling \$7,669.52.
- F. Water Report – Mr. Michael Williams, with Gulf Utility, presented his report to City Council. Mr. Williams advised that during the month they had 5 district alerts. Mr. Williams said that they are working with Entergy to restore the power balance to Water Plant 2 and some other power issues, because they do not have consistent 3-phase power to the plant at this time. John Champagne asked whose fault it was that they did not have the correct power to the plant. Mr. Williams said that it was Entergy's fault, and said that Entergy has acknowledged that they had some repairs that they have to make to their lines.

Rebecca Huss said that they have been talking about the 3-phase power problems for years, which was why they could not use Well No. 4 last summer. Mr. Williams said that was correct. John Champagne asked if the City could generate an invoice for Entergy for opportunity costs, something. Mr. Yates said that he had met with a representative from Entergy two months ago, who said that they were working on the 3-phase line. John Champagne said that it is costing the City money and the City can't use the well because of Entergy.

Rebecca Huss said that Entergy has also not been responsive for other things, such as, a tree that was on one of the power lines to Well No. 2 that they knew about for weeks and finally the City ended up cutting the tree down, when it was not really their responsibility, but the City cared about service. Rebecca Huss said that she did not know if they could switch representatives or push this up, because it seems like they are talking about the same issues and the same lack of service monthly. Mr. Yates said that he could press the issue with Entergy.

John Champagne asked if there was any legal recourse that the City could take against Entergy. Mr. Foerster said that if the City has been damaged, and it is based on the negligence or failure of Entergy to do something that they should have done, if it can

be established what those damages are, if they are real damages, they could file claims in small claims court. Mr. Yates said that if the City is able to produce the water, he was not sure what the damages would be. Mayor Jones said that Water Well 2 will be more important for keeping pressure on the west side of the City. John Champagne said that he thought he could quantify costs, in terms of customer service and down time, he could get creative on this information.

Rebecca Huss asked if Mr. Yates knew of a customer service person that would respond better and get better action versus what they have been getting. Mr. Ed Shackelford, City Engineer, advised that he met a gentleman at a Conroe ISD breakfast a couple of years ago, and he has been visiting with him regarding this information, who referred them to a local manager. Mr. Shackelford said that they have been speaking to this person for almost two years regarding Water Plant 2 and Water Well 3. Rebecca Huss said that "no" is the answer to their question of another person. Mr. Shackelford said that there was no one above Allen, unless they call the main office.

Rebecca Huss asked if Entergy was asking for a utility rate increase. Mr. Yates said that Entergy just got a reduction in rate today, because their fuel costs were less so they reduced the rate, but said that did not mean that they did not need to press the other issue. Rebecca Huss said that the power issue does eventually burn out motors and ends up costing real money. Mr. Shackelford said that was correct. Mr. Shackelford said that one option might be to send a letter to the PUC with a copy to Entergy, letting them know that the City is not happy.

Mayor Jones said that from what he is hearing from City Council tonight, and as long as this has been going on, we need to escalate this into something to resolve the problem. Rebecca Huss said that there has also been an issue on Old Plantersville Road, which they have not gotten any satisfaction on either.

John Champagne asked Mr. Williams if he could put a number on this in terms of cost to the City that has been incurred because of this problem, with the additional time and effort that they have had to put into the matter. Mr. Williams said that he would certainly look into the matter. John Champagne said that if he asked Mr. Williams,

right off the top of his head, is there a cost. Mr. Williams said that there is essentially a cost to having bad electricity, call outs, equipment failures, which all adds up, so yes there is a cost. John Champagne asked if Mr. Williams could report that information to Mr. Yates. Mr. Williams said that he would report that information during their conference call with Mr. Yates on Tuesday at 9 a.m. Mayor Jones asked if the City has had to buy new equipment because of this problem. Mr. Shackelford said that they have had to repair equipment. John Champagne said that they need to put a pencil to this information.

Mr. Williams reported on the poor water quality call for brown water at Phil's Roadhouse, but it turned out to be an internal issue with their filter going to their tea machine. Mr. Williams said that was the only water quality call that they have had lately, and said the rest of the calls were high wet well calls. Mr. Williams advised that Lift Station 9 had a ragging issue.

Mr. Williams said that Lift Station 4 had a high wet well, and the operator found both pumps not engaging. Mr. Williams said that the phase monitor and contactors were found to be burnt, possibly from an incoming power spike. Mr. Williams said that they had to replace the phase monitor and contactors, and once that was done, the Lift Station was back up and running.

Mr. Williams reported that the daily average flow for the month was 157,000 gallons, which is 39% percent of the permitted value. Mr. Williams said that the peak flow was 417,000 gallons, which is 104% percent above the permitted value. Mr. Williams said that they have been working with the City to find a way to reduce the amount that they are taking in when it rains. John Champagne commented that was a lot. Mr. Williams said that he did a brief survey of a couple of the manholes and he immediately found a lot of issues, and he could see a lot of water coming in through the manholes that need to be resealed, or lines that are possibly broken. Mr. Williams advised that he had reported all that information to the City. Rebecca Huss said that she thought that manhole rehabilitation was on Jones and Carters long list of things that the City needed to apply their funds to. Mr. Williams said that was correct, along with manholes, lines and ditches and a lot of the manholes that were flush with the ground even though it

did have an inflow preventer in it, he notices a lot of dirt and sand inside the manhole that is getting washed through between the ring and the inflow preventer. Mr. Williams said if they raised the manhole a couple of inches they should see a slight difference in the flows to the plant. John Champagne asked what the average amount of water treated would be. Mr. Williams advised that the average would be 157,000 gallons. John Champagne asked if that was 43% percent of the allotted amount. Mr. Williams said that it would be 39% percent. Mayor Jones asked how much of that is just at the plant itself, wide open catching water. Mr. Williams said that would probably be a couple thousand gallons, it would not be significant or amount to 64% percent. Rebecca Huss said that the higher the City's average is, the sooner they will need to start building their next sewage treatment plant. Mayor Jones said that they have been working on this problem since he first got involved with the City. John Champagne said that there has to be a large gaping hole. Mr. Williams said that one manhole that he went to open had none of the rings sealed, so the whole thing just slid over. Rebecca Huss said that was also a safety problem. Mr. Williams said that was correct. Mayor Jones said that he saw on Mr. Muckleroy's list that they grouted a manhole, and asked if that was something that he was working on to stop the problem. Mr. Williams said that was a possibility. Mr. Williams said that he has seen contractors run their bores through manholes and not even know it, which will cause a lot of infiltration.

Mr. Williams said that their effluent monitoring, they are within their permitted values with a total of 4.54 inches of rain this month, and on January 18, 2017 for the peak at 1.8 inches.

Mr. Williams stated that for the water report, they had a total of 97% percent accounted for, with a total pumpage of 6.407 million gallons, flushing amount 160,000 gallons and 6.064 million gallons sold. Mr. Williams commented that since the new automatic meters have been installed, which has been one year, they have averaged 96% percent accountability versus the high 70's before they replaced the meters. John Champagne said the meters may pay for themselves one day.

- G. Engineer's Report – Mr. Ed Shackelford presented the report to City Council. Mr. Shackelford advised that Mr. Chris Roznovsky was attending a meeting that TxDOT

was having this evening about SH 105 from Lone Star Parkway going west, to see what they are proposing to do through the City of Montgomery. Mr. Shackelford said that TxDOT has delayed the FM 149 project again. Mayor Jones said that he attended the same meeting 10 years ago regarding SH 105.

Rebecca Huss said that she hoped Mr. Shackelford would highlight the Mobility Study, which was about three months behind schedule. Mr. Shackelford said that they were behind and there have been a few questions asked. Mr. Shackelford said that they are getting closer to a final draft, and they need to sit down with representatives from the two Commissioner's offices and make certain that they collect their input before they bring it to City Council. Mr. Shackelford said that they should be bringing it to City Council soon.

Mr. Shackelford advised that the permit renewals for the two sewer plants are in process. Mr. Shackelford stated that all the subgrade work on Gardner Drive has been done and the utilities are in. Pizza Shack contractors should start sometime after March 5, installing water and sewer lines beginning at the northeast corner of FM 2854 and SH 105 and start heading east. Mr. Shackelford said that they have told the contractor, since it is grant funding, that he needs to be prepared to not get in a big hurry for the money because of the process that will be necessary to submit the invoices.

Mr. Shackelford advised that the KENROC Utility and Feasibility Study will come before City Council at the next meeting.

Mr. Shackelford stated that the Villas of Mia Lago have been given comments on the plats and construction drawings, which they are in the process of addressing. Mayor Jones asked how many times the drawings go back and forth between the Engineer and the contractor. Mr. Shackelford said they have seen as few as three times, depending on who the engineering firm is, and as many as five to six times, again depending on the engineering firm. Mayor Jones said that he was asking about this specific one and whether it has been a long back and forth for the Villas of Mia Lago. Mr. Shackelford said that his recollection is that they are at either three or four revisions. Rebecca Huss said that she would assume that was like Mr. Fleming's illustration where he has the

same comments that were addressed in the last revision that will show up in the third and fourth revision. Mr. Shackelford said that was correct. Mr. Shackelford said that any of their responses to the comments might generate a new comment on the reply, but nothing new on the plan set.

Mr. Shackelford advised that Lone Star Bend extension and Lone Star East improvement are nearing 90% percent completion. Those projects are coming along nicely and they are interested in getting them out for bids shortly. Mr. Shackelford said that besides the construction plans, they are also submitting technical specification and bid quantities, and not only will their engineering group look at the information, but their purchasing group will also look at the bid specs to make certain of each County bid requirement, and then it will go to advertise for bids. Mr. Shackelford said that, generally, 60 days after that they should have bids, and then a contractor on the ground within 30 days from that date. Mr. Shackelford said that they were at least 4 ½ months out.

Mr. Shackelford said that they were still working on the Villas of Mia Lago Development Agreement with the developer.

Mr. Shackelford stated that at the last meeting, they had brought the Certificates of Acceptance for Terra Vista and Waterstone Section II. Mr. Shackelford said they remembered, before the Certificates of Acceptance were released, that the developer still owes the City a fair amount of money for inspections, plan reviews and various meetings that the developer had called to get status. They are working with the developer and the engineer to get that collection so they can release the Certificates of Acceptance. Mayor Jones asked what the status was and whether they were fighting over numbers. Mr. Shackelford said that there was a difference of opinion on whether those numbers should have been charged to the developer or not, which is in the \$42,000-\$44,000 range. Rebecca Huss asked if those funds were to Jones and Carter or to the City. Mr. Shackelford said that it was to the City. Mr. Yates said that the balance was about \$29,000, because they have already paid about \$19,000 of the total. Mr. Shackelford said that these were costs that the City incurred for new development within the City.

Heritage Place Medical Center will have an action item on the agenda in the near future about Houston Street and financial participation. McCoy's offside sanitary sewer extension contractor is out working and finding existing utilities that might be slightly in conflict with his proposed lines, which they are working through.

Mr. Shackelford said that the 33-acre Camillo tract, which is the tract on Stewart Creek Road, has asked them to proceed with updating their Economic and Utility Feasibility Study, which was done about 12-18 months ago. Mr. Shackelford said that as soon as they pay their deposit, they will begin the update of the Study.

Dave McCorquodale asked about the Joint Mobility Study, with regard to when the County Judge came and spoke to City Council, there was a lot of emphasis on north-south and new north-south arteries. Dave McCorquodale asked who made the determination and whether it was a joint effort between Montgomery County and TxDOT, or when new lights are involved, is it strictly a TxDOT decision. Mr. Shackelford said that it was strictly a TxDOT decision, which is based on a warrant study that is done where the requirements are spelled out in the Texas Manual of Uniform Traffic Code. Mr. Shackelford said that there were eight warrants to look at and generally if you meet one of the warrants, a traffic signal is warranted. Mr. Shackelford said that different entities like to make certain that they cover more bases than just one of the warrants, such as, time delays, accidents and history. Dave McCorquodale said that if the criteria for good business, or a particular business, was access to the interstate, when you see a new light on SH 105 it is effectively lifting up the City of Montgomery and moving it a little bit further west, because it takes a few more minutes to get here. Dave McCorquodale said that if they add up the cumulative effect of the light, then suddenly the City of Montgomery is not 12 miles away from the Interstate, they are 30-45 minutes away, which could be a factor for a large business needing that access. Mr. Shackelford said that something to keep in mind, the more movements that occur in an intersection, the maximum delay is 90 seconds, can cause more delays.

H. Financial Report and Quarterly Investment Report – Mrs. Cathy Branco, Financial Consultant, presented her report to City Council. Mrs. Branco advised that the City had \$2,470,939 funds available, and of those funds there is \$1,030,446 funds invested. Mrs. Branco said that some of the highlights are the general fund budget is in the deficit of about \$6,000, most of which is sales tax being less than what is expected.

Rebecca Huss asked Mrs. Branco if she could, without amending the budget, put in a line item that would back out the Kroger funds, because they had talked about it at the last meeting on how since Kroger is not coming in, they have to subtract about six months' worth of revenue, but then they have to also subtract about six months' of expected reimbursements. Rebecca Huss asked if that could be backed out of the budget to give them a better idea on how their taxes are running versus non-Kroger expectations. Mrs. Branco said that she could do that if she knew how much was allotted for Kroger, she could back that out. Rebecca Huss said that it would make it easier to see where they stand.

Mrs. Branco said that something that was not on their budget, but the City Engineer was talking about was the receivables for the Feasibility Studies, where the expenses have gone over the amount that was actually deposited. Mrs. Branco said that each individual project deposits for a Feasibility Study, and then there are expenses that go against those funds. Mrs. Branco said that they are still waiting for the two \$15,000 deposits for the Mobility Plan from Montgomery County Precincts 1 and 2. Mayor Jones said that the City has paid on that project. Mr. Shackelford said that he was preparing draft invoices for the City to send to Montgomery County to collect from the two precincts. Mayor Jones thanked Mr. Shackelford.

Mrs. Branco advised that regarding debt service, all the administrative transfers have been made for the quarter, which will show up on the next report. Mrs. Branco said that they had just paid the March 1 Debt Service payments, in the amount of \$411,358, leaving a balance of \$2,000 in the checking account and \$2,402 in the investment account. Mrs. Branco said that according to the report from the Tax Assessor/Collector, the City has receivables for taxes in the amount of \$181,955 as of January 31, 2017, and the next debt service payment due on April 1 will be covered.

Mrs. Branco said that the Utility fund, she was happy to say, is good on the budget for \$110,000.

Rebecca Huss said that the Quarterly Investment statement showed \$50 that they made from all that money in the bank, which is really pathetic.

Mayor Jones asked about the status of the Annual Audit. Mr. Yates said that the Audit was complete and he thought that it would be presented either at the next meeting or the meeting after that. Mrs. Branco said that she had not heard anything from the Auditor. Mr. Yates said that he thought the presentation would be at the first meeting in March. Mrs. Branco said that she hoped that she would see the Audit prior to City Council seeing it.

Mr. Yates asked Mrs. Branco if her Quarterly Investment Report was part of her report. Mrs. Branco asked Ms. Hensley, City Secretary, if the Report was in the Agenda Pack. Ms. Hensley advised that it was in the Agenda Pack. Mrs. Branco said that she had not looked at the Agenda Pack. Mrs. Branco advised that her Report had the Quarterly Investment Report for City Council to refer to, showing the amount of interest was earned, where the funds are invested and other related information.

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

6. Consideration and possible action to receive and accept the Certification of Unopposed Candidates for the May 6, 2017 City of Montgomery General Election as presented by the City Secretary.

Ms. Hensley presented the Certification of Unopposed Candidates for the May 6, 2017 City of Montgomery General Election. Ms. Hensley advised that the Certificate states that all the candidates that had filed were unopposed. Ms. Hensley advised that only the incumbents had filed for re-election.

Rebecca Huss moved to accept the Certification of Unopposed Candidates for the May 6, 2017 City of Montgomery General Election as presented by the City Secretary. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE DECLARING UNOPPOSED CANDIDATES IN THE MAY 6, 2017 CITY OF MONTGOMERY, TEXAS GENERAL ELECTION ELECTED TO OFFICE; CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

8. Consideration and possible action regarding calling a public hearing regarding establishing a zoning district for the 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 this would be for the initial zoning of the property being annexed, and the public hearing will be held after the property has been annexed.

John Champagne moved to schedule the Public Hearing for March 28, 2017 Meeting at 6 p.m., and will follow the Planning and Zoning Commission Meeting that is set for March 27, 2017 at 6 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action regarding Longview greens miniature golfing variance request to allow gravel as a parking surface.

Mr. Yates advised that this was a request for a variance from Jason Long. Mr. Yates advised that the Code requires the parking surface to be hard surfaced, with either asphalt or concrete. Mr. Yates said that the owner, Jason Long, is asking for an undetermined period of time to bring in enough revenue to pay for the resurfacing of the parking area. Mr. Yates said that the way that this can be accomplished, would be if he received a temporary Certificate of Occupancy (TCO) for up to six (6) months period of time, and then if not paved by the sixth month anniversary of the TCO, the TCO would be removed and he would have to close his business. Mr. Yates said the City Engineer has recommended a dust controlling agent to be placed over the unpaved portion of the parking lot. Mr. Yates said last night the Planning and

Zoning Commission reviewed this information and recommended the approval of the variance for a six month period of time, with the dust control, and they also mentioned that they wanted Mr. Yates to make sure that there was enough parking spaces for this facility. Mr. Yates said that he did not think that would be a problem.

Rebecca Huss commented that this property is essentially part of a POA, and asked if that was correct. Mr. Yates advised that was correct. Rebecca Huss said that she was uncomfortable with the City weighing in on something that is essentially a dispute between a landowner and their POA. Rebecca Huss said that Mr. LeFevre in asking them to do this for six months or for however long, he is asking the City of being in the business of being the hammer and do the work. Rebecca Huss said that she did not think that anyone in the Buffalo Springs POA would want one of their neighbors to come to the City and ask for a variance for something that they have not been able to work out with the POA. Rebecca Huss said that she felt that it was a separate agreement between the two of them and the City should not be involved. Mayor Jones said that the City's Subdivision Ordinance requires that the parking lot be paved.

Dave McCorquodale asked for to clarify as to whether or not that particular ordinance was in effect when the PDD was adopted, because Mr. LeFevre has stated that his PDD froze the ordinances at the time the PDD was signed. Mr. Shackelford said that was in 2003. Mayor Jones said that actually he did not think that it was, but he did not know for a fact, but he was pretty sure that came later. Mr. Yates said that was the Subdivision Ordinance, not necessarily the Zoning Ordinance, and this is out of the Zoning Ordinance. Dave McCorquodale said that Mr. LeFevre stated that the rules that were in place were frozen exactly like it was back when the PDD was adopted and those were the rules that he had to follow. Mayor Jones said if that is the case, then if the rule was there when they adopted the PDD then the City would have a say, but if it was not, then it would fall back on Mr. LeFevre. Mr. Shackelford said that they were going to try and pull up the information for 2003.

Rebecca Huss said that Mr. LeFevre is asking them to hold the developer for six months, and then be the bad guy and shut them down if they don't have the money to do the parking lot, which is not the City's job. Rebecca Huss said if Mr. LeFevre wants to have a variance, then he needs to decide yes or no, and not have the City do all the work. Mayor Jones said that this is a technicality, and he thinks that all parties involved want the parking lot to be paved.

Rebecca Huss said that if you look back at what has happened with the Barnes building, where they have been in a similar situation, and they had to get variances just to get the job done, and they are still waiting for completion of the project. Mayor Jones said if they don't really have a dog in the fight, Mr. LeFevre is just wanting the City to be his hammer. Rebecca Huss said that Mr. LeFevre said that he wanted the City to be his hammer because he does not have one. Rebecca Huss said that Mr. LeFevre needs to decide. John Champagne said that the POA, as he understands it, he is the POA, and he can either give the variance or not give it. Rebecca Huss said that Mr. LeFevre could enter into a separate legal agreement that says that they give legal permission to do this in accordance with City Ordinances for a specific number of months, which would be the hammer as a contract.

Dave McCorquodale asked Mr. Foerster if there were rules with a PDD like deed restrictions that are written so that when you buy the land you buy it with the restrictions. Mr. Foerster said that he would expect that there would be, but said that he had not seen his document so he could not say. Mr. Foerster said that the issue is whether the City wants to grant a variance to the Zoning Ordinance tonight or defer it until they get more information. Mayor Jones asked what would happen if they granted the variance, but they really did not have the right to grant the variance. Mr. Foerster said that he thought the City had the right to grant the variance, for six months or a year. John Champagne asked if the City had mandated that the Cowboy Church pave their additional parking lot. Mr. Foerster said that was before his time with the City. Dave McCorquodale said that they are not part of the PDD, which states that the only rules that the City is allowed to enforce on Mr. LeFevre's land is what was on the books at the time the PDD was adopted.

John Champagne moved to table this item, because there has been no research done on the information. Rebecca Huss seconded the motion.

Discussion: Mayor Jones asked what the delay of the decision does to the process for Mr. Long. Mr. Long said that he would like to identify costs and when it is going to hit his books, six month or 12 months. Mayor Jones asked if City Council was favorable to granting the variance, but that decision can't be made until later, what does that do to Mr. Long completing his project and would it hinder him. Mayor Jones asked how making the decision in two weeks at their next meeting and how that would fit into his construction plans. Mr. Long said that the

bank where he is securing the funding for construction would like an answer to this because it does impact the loan. Mr. Long said that he had told the bank that he would be attending the meetings to get some resolution to the matter. Mayor Jones said that several of the interested parties, Mr. LeFevre being one of them, says that he is in favor of the variance, and the Planning and Zoning Commission is in favor of the variance, but this body has not decided. John Champagne said that they were not sure that they have the right to decide. Rebecca Huss said that Mr. Long was only moving dirt, so it is not like they are delaying the opening because he does not have a parking lot. Rebecca Huss said that the opening has to be more than two weeks out, so they would not put in the final paving before the next Council Meeting. John Champagne said that he felt Mr. Long's immediate solution to this would be to have an agreement with the person that he bought the property from. John Champagne said that, assuming that the Ordinance is in place, they would probably take Planning and Zoning Commission's recommendation for the six months. Rebecca Huss said that she would have hesitation on being involved with any POA issue that should be handled by the POA. Mayor Jones said that is why they are tabling the matter, to see if they have any right to be involved.

Mayor Jones asked if they could get an answer within two weeks for the next meeting. Mr. Foerster said that they could get that information. John Champagne said that Mr. LeFevre had brought up the tap fee and asked for the amount. Rebecca Huss said that it was \$27,000, and MEDC put \$15,000 into the account toward that fee. John Champagne said that they could consider a loan as an option. Rebecca Huss said that she did not think that was the best idea. Mayor Jones said that whatever happens, should happen as quickly as possible and he would like to say that this is a potentially great project that he would sure like to see be successful. Mr. Yates said that if it turns out that the POA is the answer, then he will report back to City Council and Mr. Long, and it will be based on the City Attorney's opinion, which could happen in the next day or two. John Champagne said that Mr. Long might want to consider bringing up what he just said to Mr. LeFevre, because he brought up the water/sewer tap costs. Mr. Yates said that he needed to review the tap fees and what is being charged. Rebecca Huss said that Mr. Muckleroy advised her that the sewer tap includes the manhole, which the City requires for all commercial taps. John Champagne said that they have to be consistent on what is being charged. Mr. Yates will check the rate information.

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. (No items at this time)

COUNCIL INQUIRY:

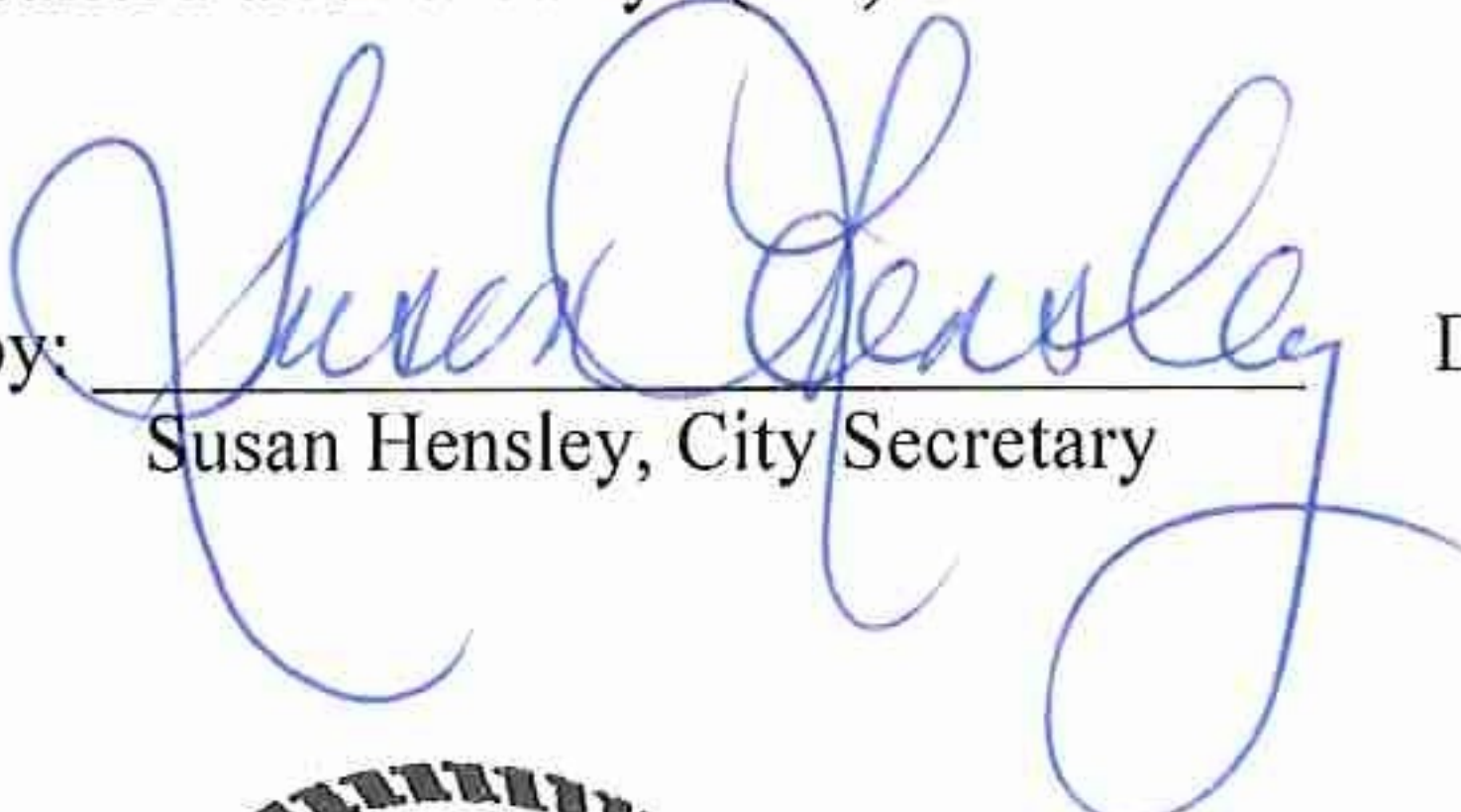
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

No comments were made.

ADJOURN

Dave McCorquodale moved to adjourn the meeting at 7:29 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved:

03/14/17



Mayor Kirk Jones

