

MINUTES OF PUBLIC HEARING and REGULAR MEETING

September 13, 2016

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present: Kirk Jones Mayor
 Jon Bickford City Council Position # 1
 John Champagne, Jr. City Council Position # 2
 T.J. Wilkerson City Council Position # 3
 Rebecca Huss City Council Position # 4

Absent: Dave McCorquodale City Council Position # 5

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

Mayor Jones advised that Dave McCorquodale is expected to arrive at the meeting a little late.

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARINGS:

Mayor Jones convened the Public Hearing at 6:00 p.m.

1. Public Hearing for the purpose of hearing public comments on a proposed increase of water and sewer rates for the City.

Mr. Yates advised that the rates are based on audited figures for the Utility Fund. Mr. Yates said that the increase is needed to pay for the maintenance and depreciation of the system. Mr. Yates said that there would be no change for the minimum user, but there is a \$6 increase for the 7,000 gallon per month user. Mr. Yates said that most of the increase is to the institutional rates. Mr. Yates advised that he had held two public meetings on August 23, along with a press release, and post cards were mailed to every utility customer of the City.

Rebecca Huss stated that the institutional users are primarily the schools, and asked if they were aware of the increase. Mr. Yates said that he had a special meeting with the School District financial person. Rebecca Huss asked what their reaction was. Mr. Yates said that while they were not looking forward to the increase, they accepted it and realized the rationale of the increase, which they would include in their budget for next year.

Mayor Jones announced that this was a public hearing and asked if any of the public wanted to make comments. There were no comments made by the public.

Mayor Jones adjourned the Public Hearing at 6:05 p.m.

Reconvene into Regular Session:

Mayor Jones reconvened the Regular Session at 6:05 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.

There were no comments made.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Public Hearing held on August 19, 2016, Public Hearing held on August 23, 2016 and Regular Meeting held on August 23, 2016.

Rebecca Huss moved to approve the minutes as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding adoption of the following Proclamation:

A PROCLAMATION PROCLAIMING APPRECIATION AND CONGRATULATIONS TO NANCY AND LLOYD ASHBAKER ON THEIR TWO DECADES OF OPERATING THE OLD MONTGOMERY STEAKHOUSE AS AN ESSENTIAL ELEMENT OF DOWNTOWN MONTGOMERY.

Dave McCorquodale arrived at 6:06 p.m.

Mayor Jones read the Proclamation into the record as follows:

PROCLAMATION

WHEREAS, Nancy and Lloyd Ashbaker, owners of the Old Montgomery Steakhouse, are celebrating 20 continuous years in the restaurant business in Montgomery, Texas and

WHEREAS, in September 1996, the Ashbaker's bought the Texana Restaurant and Bennett's Steakhouse, here in the City of Montgomery, which later became the Old Montgomery Steakhouse and remains today at 204 McCown Street, providing breakfast, lunch and dinner seven days a week.

NOW, THEREFORE, I, Kirk Jones, Mayor of the City of Montgomery, do hereby express appreciation and congratulations to Nancy and Lloyd Ashbaker on their two decades of operating the Old Montgomery Steakhouse as an essential element of downtown Montgomery.

***FURTHER, BE IT PROCLAIMED** that the City of Montgomery looks forward to many more years of tasty meals and wonderful fellowship to be enjoyed at the Old Montgomery Steakhouse.*

Mayor Jones presented Nancy and Lloyd Ashbaker with the Proclamation.

Rebecca Huss moved to adopt the Proclamation, as read by the Mayor. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding scheduling a Public Hearing for an Alcohol Beverage License Application for Hodge Podge Lodge located at 300 Prairie Street, Montgomery, as submitted by Jeffrey S. Angelo, President, ZNZ Creative Services LLC d/b/a Hodge Podge Lodge and d/b/a HPL Hospitality.

Dave McCorquodale moved to schedule a Public Hearing to be held on October 11, 2016 at 6:00 p.m. at City Hall regarding an Alcohol Beverage License Application for Hodge Podge Lodge located at 300 Prairie Street, Montgomery, as submitted by Jeffrey S. Angelo, President, ZNZ Creative Services LLC d/b/a Hodge Podge Lodge and d/b/a HPL Hospitality. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

5. Consideration and possible action regarding scheduling a Public Hearing for an Alcohol Beverage License Application for Whitley Vineyards, LLC located at 401 College Street, Suite 150, Montgomery, as submitted by Phillip and Gina R. Whitley, Managing Members.

Rebecca Huss moved to schedule a Public Hearing to be held on October 11, 2016 at 6:00 p.m. at City Hall regarding an Alcohol Beverage License Application for Whitley Vineyards, LLC located at 401 College Street, Suite 150, Montgomery, as submitted by Phillip and Gina R. Whitley, Managing Members. John Champagne seconded the motion.

Discussion: John Champagne asked where 401 College Street is located. Rebecca Huss stated that address was located in the Barnes building. John Champagne said that was where he thought it was, he just wanted to confirm.

The motion carried unanimously. (5-0)

6. Consideration and possible action to accept the Certification of the 2016 Appraisal Roll for City of Montgomery Public Improvement District 1.

Mr. Yates advised that according to the Public Improvement District 1 Creation Ordinance, City Council is required to accept the Certification of the Appraisal Roll, as provided by Montgomery County Appraisal District. Rebecca Huss asked to confirm that this was the Summit Business Park. Mr. Yates said that was correct.

Mr. Yates advised that the ordinance also allows \$50 per property owner, of which there are six, as a fee to the City for its activities. Mr. Yates said that he would be billing the Appraisal District following action by City Council.

Jon Bickford moved to accept the Certification of the 2016 Appraisal Roll for the City of Montgomery Public Improvement District 1. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, REPEALING ORDINANCE NO. 2011-22 AND ORDINANCES AMENDING SAME, ESTABLISHING AND ADOPTING NEW MONTHLY SERVICE RATES AND CHARGES FOR WATER AND SEWER SERVICE FOR CONSUMERS INSIDE AND OUTSIDE THE CITY PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING AND ESTABLISHING THAT AN AMOUNT BE COLLECTED TO OFFSET COSTS AND EXPENSES TO THE CITY FOR COSTS AND EXPENSES THE CITY WILL INCUR FOR MEETING GROUNDWATER REDUCTION REQUIREMENTS OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT IN ADOPTING ITS JOINT GROUNDWATER REDUCTION PLAN, SO THAT THESE EXPENSES MAY BE PASSED ON TO CONSUMERS; DESCRIBING THE METHOD FOR CHARGES AND BILLING; ESTABLISHING AN AMENDED SCHEDULE OF FEES, DEPOSITS, RETURNED CHECKS, AND OTHER CHARGES REQUIRED BY CHAPTR 90 OF THE CODE OF ORDINANCES OF THE CITY OF

MONTGOMERY, TEXAS; REPEALING ALL ORDINANCE IN CONFLICT; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF OCTOBER 1, 2016 AFTER PUBLICATION.

Mr. Yates advised that there were two items that he needed to point out to City Council. Mr. Yates advised that regarding the effective date, he would prefer that the ordinance be made effective upon publication. The intention is to publish the legal notice, so the ordinance will be effective for the September 20-October 20 billing cycle. Mr. Foerster said that he did not have a problem with that, stating that it could be made effective upon publication, which he believed would be later this week.

Mr. Yates said that the other item that has not been discussed fully is the residential deposit is being recommended to be increased from \$125 to \$225 primarily because of the loss that they have seen in rental properties, when they move out on the bill. Mr. Yates said that he felt the \$225 would cover that final bill, which can often be \$150 - \$175.

Rebecca Huss asked about when they were discussing the water rates, with the consultant, one of the things that they had discussed was the need for a multi-family rate. Rebecca Huss said that right now they have an inconsistent application with some multi-families and they were going to create a new classification and asked if that needed to be included in the ordinance, because they were creating a new class of consumers. Mr. Yates said that the classification is included. Rebecca Huss asked whether they needed a definition in the ordinance. Mr. Yates said that multi-family classification was included in the rate schedule. Rebecca Huss asked if a two-family multi-family would be counted the same as a large number multi-family. Mr. Yates said that a duplex would not be counted the same as a multi-family.

John Champagne moved to adopt the Ordinance as read into the record by the Mayor, subject to the effective date being upon publication. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

8. Consideration and possible action regarding solicitation of bids for the Mowing Contract.

Mr. Yates advised that this item is at the recommendation of Mr. Mike Muckleroy, Public Works Manager. Mr. Yates said that the current contract is with 3rd Day Creations Lawn and Landscaping. Mr. Yates said there have been several issues with work not being completed by 3rd Day Creations.

Mr. Yates said that Public Works has had to focus a lot time and resources to perform inspections and re-inspections of the work by 3rd Day Creations. Mr. Yates said that there have been numerous deductions for work not being completed, but they would rather pay the full amount and get the mowing done correctly each month. Mr. Yates presented a tabulation showing that \$4,950 has been deducted during the past six months, which is approximately one month's contract price of \$5,557.50.

Mr. Yates said that the recommendation to City Council is to allow the City staff to go out for bids. Mr. Yates said that he wanted to get City Council's agreement that they needed to go out for bids before they went through the process.

Jon Bickford asked whether the City's contractual obligation had been fulfilled, and whether we were going month-to-month now. Mr. Yates advised that was correct. Mayor Jones asked Mr. Muckleroy for his thoughts on this matter. Mr. Muckleroy stated that they have spent a lot of time conducting mowing inspections and re-inspections, with a lot of time spent trying to get the full mowing job completed, which it is not being done. Mr. Muckleroy said that the contract also states that they are to maintain planting and weeding of the flower beds and none of that is done unless they ask for it to be done, instead of automatically having it done. Mr. Muckleroy said that the mowing has almost never been completed during the last four months, except for this last month. Mr. Muckleroy said that he believed if they go out for bids they will get a better bid, and they also need to add a few more areas to the contract.

John Champagne asked Mr. Muckleroy what the established process was for reviewing contracts, such as this one. Mr. Yates advised that they did review the contracts every October.

John Champagne said that he would encourage staff to review all of these contracts on a regular basis, because competition has a way of bringing better service to our citizens. John Champagne said that to the point of going out for bids, he said to go out for bids.

Dave McCorquodale asked if the weather had any part in the problem for the past year. Mr. Muckleroy said that is a problem some of the time, but not all of the time, and stated that the job is just not getting completed. Mr. Muckleroy said that he did not know if it was because there were not enough guys on the ground or not enough mowers, that is his business and it is just not getting done. Rebecca Huss said that prospectively they are paying the price of the contract and essentially paying Mr. Muckleroy to inspect the work when he could be doing something else, which is not a very good use of his time. Mr. Muckleroy said that he would like to get to the point where he does not have to conduct mowing inspections. Jon Bickford said that you should not have to do inspections. Mr. Muckleroy said that they are doing inspections every week. Jon Bickford said that when they hire a contractor, they expect them to get the work done, and they should not have to babysit them to get it done.

Jon Bickford moved to authorize the City Administrator to solicit bids for the mowing contract. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding appointment of a Building Code Review Committee.

Mr. Yates advised that Mr. Rick Hanna, City Building Inspector, came to him two months ago advising that he had received some questions from some builders about roofing joist separation and the Roofing Code, which led Mr. Hanna to question a few other points about the Building Codes, which he feels might need to be amended.

Mr. Yates said that he had spoken with Mr. Bill Simpson, resident, member of the Planning and Zoning Commission, and owner of a roofing business, Michael Ogorchock, all-around construction wise person, Bryan Solomon, owner of an electrical supply and service company and experienced electrician, to see if they were willing to serve on a Building Code Review Committee. Mr. Yates said that he would also recommend Mr. Glynn Fleming, City Engineer,

to serve on the Committee. Mr. Yates said that they were selected based upon their general expertise and the Committee will probably meet two or three times at City Hall with Mr. Hanna. Mr. Yates said that the committee will be on a voluntary basis. Mr. Yates said that a Committee is not required by the Building Code for amendments, but Mr. Hanna felt that he could get more advice by using local people and it would be better than just him making suggestions.

Mr. Yates said that the recommendation is to appoint a Building Review Committee. Mr. Yates said that he has spoken to Mr. William Simpson, Mr. Michael Ogorchok and Bryan Solomon, and they are all willing to serve on the Committee, but City Council can appoint whoever they would like to serve on the Committee.

Mayor Jones asked if the City adopted the International Building Code, Version 2014, for example, and then this Committee decides something, would it be an amendment. Mr. Yates said that it would be an amendment to the ordinance and they would come back with an ordinance with a specific section of the Code being amended, which City Council would have to approve.

Dave McCorquodale asked whether Mr. Yates had a general sense, with regard to the International Building Code, because he would not be comfortable if the rules were less strict than the Code. Mr. Yates said that he can pass that information on to the Committee, but he did not know the answer to that question. Mr. Yates said that his choice would be to have the requirements tighter and more stringent. Mr. Yates said that he did not know what the Committee would recommend. Mayor Jones said that he was sure Mr. Hanna had a list in his head that are questionable. Jon Bickford said that he thought it would be good to see what he wants changed. Jon Bickford said that things are changing, homes are getting more efficient and the City should stay on top of the changes.

Rebecca Huss asked if there was a way to tie these amendments to the adoption of the new Code so that when they say a 2017 International Building Standards Code, they look at their amendments so that they don't end up with amendments that start out tighter, but end up looser

than the International Standards, so that both of the reviews happen at the same time. Mr. Yates said that he was not sure when the new Code would be up, because they are done every two years, so he would suggest not waiting. Mr. Yates said that when the new Codes do come, they could have a Committee review the Code before adoption. Mr. Fleming said that the International Code Council usually operates on a 3 to 5 year cycle. Mayor Jones said that Mr. Hanna usually comes to City Council when there is a new version.

John Champagne moved to appoint the Building Code Review Committee that would consist of Bill Simpson, Michael Ogorchock and Bryan Solomon to review the existing Building Codes, and amend as appropriate. Mr. Yates asked if the motion could include Glynn Fleming. John Champagne added Glynn Fleming and Rick Hanna to the Committee. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

10. Consideration and possible action regarding Notice of Termination of Joint Groundwater Reduction Plan Agreement with Montgomery County Utility District Nos. 3 and 4.

Mr. Fleming advised that in 2011, since the City did not have an alternate water source and in order to comply with Lone Star Groundwater Conservation District's (LSGCD) Regulatory Plan Phase II(B) the City opted to partner with Montgomery County Utility District Nos. 3 and 4 in a Joint Groundwater Reduction Plan (GRP).

In 2013, as planning and design, and ultimately construction of the alternate water source, Well No. 4, Catahoula Well, Mr. Fleming stated that at that time City staff submitted a revised GRP, with the intent of opting out of the current contractual obligation with the MUD's. Mr. Fleming said that the drop dead date for that agreement and the first date the City has the option of terminating that agreement is December 31 of this year. Mr. Fleming said that per the terms of the agreement, the City is required to provide a minimum of 90 days' notice.

Mr. Fleming said that he has put before City Council a draft termination letter, if City Council so chooses, that can be directed to Montgomery County Utility District Nos. 3 and 4 notifying them of the City's intent to terminate the GRP Agreement effective January 1, 2017. Mr. Fleming said that next year, the City would be their own GRP.

Dave McCorquodale asked what process MUD Nos. 3 & 4 would have to follow, and whether they would have to revise their GRP. Mr. Fleming said that this action will not affect them in any way, the City just will not remit payment to them for water drawn from the confined or regulated aquifers.

Rebecca Huss asked whether the City was obligated to establish a Board or administrative measure to make sure that we are staying within our usage of the alternate water source. Mr. Fleming said no, not at this time. Mr. Fleming said that City staff, Public Works and the Utility Operator and Engineering staff should be able to monitor the usage. Mayor Jones said that data is easily acquired. Mr. Fleming said that was correct, they track that information on a daily basis.

Rebecca Huss asked if something were to happen where they had to draw much less water from Well #4 for a month, would they pay fines to the State. Mr. Fleming said that if they came to that eventuality, then yes, you would pay a penalty to LSGCD. Mr. Fleming said that right now the City's permitted combined withdrawal from Wells 2 and 3 is about 68 million gallons. Mr. Fleming said that right now the City produces about 82 million gallons of water a year, with Well #4 providing the largest share.

Mayor Jones said that they also own a whole bunch of conversion credits that they could spend. Mr. Fleming said that they own a modest amount of conversion credits. Rebecca Huss asked if they get penalized on a month-to-month basis or would it be spread over the entire year. Mr. Fleming said that the figures are calculated on an annual calendar year basis.

Mayor Jones advised that the monies that are being collected for MUD's 3 and 4 will continue to be collected and go toward the water system. Mr. Yates said that during the budget process, City Council wanted to create a line item budget for water projects.

John Champagne asked Mr. Fleming, based on what he has witnessed, the City's option was to join the San Jacinto River Authority (SJRA) as opposed to doing what the City did, is the route that the City has taken, in his opinion, proven to be a prudent thing for the City. Mr. Fleming said that, professionally speaking, most definitely. The City's current GRP pass through is \$1.65 per thousand gallons, and the SJRA just recently raised their rate to \$2.50 per thousand gallons. Mr. Fleming said that the City was insulated from SJRA rate increases because of the joint GRP and if you decide to go on your own, you will be your own GRP provider.

Rebecca Huss moved to notify Montgomery County Utility Districts 3 and 4 of the termination of the Joint Groundwater Reduction Plan Agreement to be done by September 30, 2016 in order to make the December 31, 2016 termination deadline. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

Jon Bickford thanked staff for their work on this item. Mayor Jones said that this was a big milestone in the City's history.

11. Consideration and possible action regarding scheduling a Public Hearing as recommended by the Montgomery Capital Improvement Advisory Committee.

Mr. Yates advised that state law requires a minimum of 30 days advance notice of the public hearing on proposed land use assumptions in the capital improvements plan. Mr. Yates said that the Capital Improvements Advisory Committee was formed approximately two months ago to look into impact fees. Mr. Yates said that the Committee will be meeting again on October 7th and at that time they expect them to make a recommendation to the City Council. Mr. Yates said that because of the timing involved and the publishing dates, is the reason for recommending the public hearing date to be held on October 25, 2016 to hear the Committee's recommendations.

John Champagne moved to schedule the Public Hearing to hear the recommendations of the Capital Improvement Advisory Committee to be held on October 25, 2016 at 6 p.m. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

12. Convene into Closed Executive Session pursuant to the Texas Open Meetings Act, Section 551.074 of the Texas Government Code, to conduct the City Administrator's Review.

Mayor Jones convened the meeting into Closed Executive Session at 6:40 p.m.

13. Reconvene into Open Session and take possible action resulting from deliberations made during Closed Executive Session.

Mayor Jones reconvened into Regular Session at 7:09 p.m.

Rebecca Huss moved that based on this year's accomplishments, which the Mayor will discuss with Mr. Yates privately, to make a one-time annual adjustment of \$5,000 to be paid out of a separate pool of funds, effective October 1, 2016 in the new budget. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

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 7:10 p.m. John Champagne seconded the motion, the motion carried unanimously. (4-0)

Submitted by: *Susan Hensley*
Susan Hensley, City Secretary

Date Approved: 9/27/16

Kirk Jones
Mayor Kirk Jones

