

MINUTES OF REGULAR MEETING

May 10, 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
 T.J. Wilkerson City Council Position # 3
 Rebecca Huss City Council Position # 4
 Dave McCorquodale City Council Position # 5

Absent: John Champagne, Jr. City Council Position # 2

Also Present: Jack Yates City Administrator
 Larry Foerster City Attorney

INVOCATION

T.J. Wilkerson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARINGS:

1. Receive Final Report from the Planning and Zoning Commission regarding a request from Michele Martin for a Special Use Permit for the property located at 14375 Liberty Street, Montgomery, Texas 77356, located immediately adjacent to Liberty Street, for a micropigmentation tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.

Mr. Yates explained that the Planning and Zoning Commission had held a public hearing at their last meeting and there were no public comments made. Mr. Yates said that at the meeting he had explained that the tattoo shop required a Special Use Permit and that he had given a copy of the Proposed Special Use Permit Ordinance to the Commission. Mr. Yates said that Ms. Martin had said that she did not plan on doing eye shading now, but thought she would leave it in the permit because she might want to do that type of work in the future. Mr. Yates said that Carol Langley had asked Ms. Martin during the public hearing whether she had read the Special Use Permit and Ms. Martin said that she understood and agreed with the permit, as presented.

Mr. Yates advised that the City Secretary, Susan Hensley had stated that she had received one phone call in response to the notice letters that were mailed, and that person had no problem with the intended use. Mr. Yates said that the motion was made to recommend approval by Jeffrey Waddell and seconded by Arnette Easley, which was approved unanimously by the Commission.

Dave McCorquodale moved to accept the Final Report as submitted by the Planning and Zoning Commission. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

PUBLIC HEARING:

Convene into Public Hearing:

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

Public Hearing regarding a request from Michele Martin for a Special Use Permit for the property located at 14375 Liberty Street, Montgomery, Texas 77356, located immediately adjacent to Liberty Street, for a micropigmentation tattoo business, exclusively for eyebrows and eye shade, as an accessory use of an otherwise approved and permitted use.

There were no comments made during the public hearing.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:06 p.m.

2. Receive Final Report from the Planning and Zoning Commission regarding on a request to rezone a 10.36 acre tract of land of McCoy's Center, located at the southwest corner of SH 105 and Buffalo Springs Drive, Montgomery, Texas, that is currently zoned Commercial, Single-Family Residential and Multi-family Residential to be zoned as Commercial.

Mr. Yates advised that no citizens had been present at the Planning and Zoning Commission public hearing. Mr. Yates said that the Commission briefly discussed how many letters had been mailed out to the surrounding property owners. Mr. Yates said that the Commission discussed the four reserves and where McCoy's building would be placed on Reserve "A." Mr. Yates said that a motion was made by William Simpson and seconded by Jeffrey Waddell to recommend the rezoning as requested from multi-family and single family to be all zoned commercial. The Commission's motion carried unanimously.

Mr. Yates advised that the McCoy's action item is not on the agenda following the public hearing because the law requires that thirty (30) days have to pass from the date of the first legal notice of publication for the public hearing before the ordinance can be adopted.

Rebecca Huss asked about the land use map, when the property for McCoy's is rezoned, and said it will leave a tiny triangle of land that is not the same use as the adjacent property. Rebecca Huss asked whether that would reduce their property value or somehow impair plans if the City makes a change that might not be consistent throughout. Mr. Yates said that he felt Rebecca Huss was right, but said that it could also be said that they are zoning toward the highest and best use of the property.

Mr. Yates said that in the future there will be items brought to City Council by the Planning and Zoning Commission to make recommendations for zoning changes. Mayor Jones said that the adjacent property owner has the opportunity to speak to the City Council if they have concerns, and they have been notified of the proposed changes. Mayor Jones said that Rebecca Huss did have a point, and that might be one of the cleaning up tasks that the Commission might want to do.

Jon Bickford said if he understood the map correctly it leaves a space between the property and SH 105. Mr. Yates said that there was no gap between the property and SH 105. Mr. Yates said that City Council would be approving the 10.36 acres shown on the plat. Mr. Fleming said that the property being rezoned is in its entirety on the plat. Mr. Fleming said that are a couple of different parallelogram shapes where the sketch may leave open for interpretation that there is some space in between the platted area and SH 105, which is not the case.

Mr. Sam Walker, Engineer for McCoy's, advised that the areas Council is discussing was already zoned commercial. Mr. Walker said that there was a small triangle of multi-family that does come across Buffalo Springs and hits their tract.

Rebecca Huss moved to receive and accept the Final Report as presented by the Planning and Zoning Commission. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

PUBLIC HEARING:

Convene into Public Hearing:

Mayor Jones convened into the Public Hearing at 6:14 p.m.

Public Hearing regarding on a request to rezone a 10.36 acre tract of land of McCoy's Center, located at the southwest corner of SH 105 and Buffalo Springs Drive, Montgomery, Texas, that is currently zoned Commercial, Single-Family Residential and Multi-family Residential to be zoned as Commercial.

There were no comments made during the public hearing.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:15 p.m.

3. **PUBLIC HEARING:**

Convene into Public Hearing:

Mayor Jones convened the Public Hearing at 6:16 p.m.

Public Hearing regarding a proposed increase of City water and sewer tap fees.

Mr. Yates advised that City Council had been provided with a copy of the proposed ordinance. Mr. Yates stated that for residential water and sewer taps Gulf Utility, City contractor, rate is, \$1,300 for sewer taps times 200% percent and the water tap is \$550 times two. For the irrigation tap, it is \$450 to encourage people to get irrigation taps and to prevent as much water as possible from getting into the sewer system so they can possibly delay expansion of the sewer system. Rebecca Huss said that if the resident is a high user, then they could save money by installing an irrigation meter. Mr. Yates said that was correct. Rebecca Huss said that the City would break even on the irrigation tap.

T.J. Wilkerson asked how much the irrigation meter was. Mr. Muckleroy advised that Gulf Utility charges the City \$450 for the irrigation tap and \$185 for the meter. Jon Bickford said that the ordinance is showing \$450. Rebecca Huss said that is plus the cost of the meter. Dave McCorquodale said that going forward anyone that wanted a meter installed would know the cost, which is not a money making venture for the City, it is just to recoup the cost.

Randy Burleigh stated that in the past a new meter from the City cost \$550 and asked if the new meters would still be \$550. Mr. Yates advised that for water it would be \$900 plus the cost of the meter. Mr. Burleigh asked how much a customer would have to pay the City for an irrigation meter. Mr. Yates said that it would be \$450 plus the cost of the meter. Mr. Burleigh asked why with a brand new meter they would be charging the customer less. Rebecca Huss said that the cost would be net higher, with \$450, which is what Gulf Utility charges to install the meter, plus the cost of the meter so it will be \$635. Dave McCorquodale said that was an approximate increase of \$85 that reflects just the cost to the City.

Adjourn Public Hearing

Mayor Jones adjourned the Public Hearing at 6:20 p.m.

Reconvene into Regular Session:

Mayor Jones reconvened the Regular Meeting at 6:20 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. Burleigh stated that he wanted to straighten out City Council on some misinformation. Mr. Burleigh briefed Council on some history of Memory Park irrigation system. Mr. Burleigh advised that the County used to pay all the water bills for Memory Park, and when they got tired of the high water bills, they told the City to remove the water meter. Mr. Burleigh advised that the City removed the meter and then sometime in 2010-2011, the City put the meter back as a no charge account. Mr. Burleigh said that the City plan was to get the irrigation system fixed and under control, so he volunteered to try and help with the system. Mr. Burleigh said that the system has an advanced professional controller that was not being used to its full potential. Mr. Burleigh said that he upgraded the system with a solar sync system and flow meter. Mr. Burleigh said that in the beginning of 2011 they only had data for about a month, but in five months they used almost 2.5 million gallons, which is over 5 million gallons per year. Mr. Burleigh said that Memory Park was one of the highest users of water in the City besides the high school. Mr. Burleigh said that after the first year of maintaining the system they reduced the water usage to 1.8 million gallons, which was pretty good.

Mr. Burleigh said that the City continues to approve projects and add zones. Mr. Burleigh said that he keeps hearing complaints from the City Council members that they are wasting water at Memory Park. Mr. Burleigh said that City Council has control of the Park, and they need to make a decision about the Park and not okay new projects or maybe put in a well. Mr. Burleigh said that he thought a new well would cost \$60,000. Mr. Burleigh said that he got word today from Weisinger that it might be \$14,000, which they are still pursuing and will bring before City Council. Mr. Burleigh said that they are looking at a small irrigation system for the pond that would pull water from the pond for the irrigation system. Mr. Burleigh said that normal usage was 150,000-160,000 gallons per month, or \$9,100 per year if they used the City's current irrigation and GRP rates.

Mr. Burleigh said that he wanted to train City employees on how to run the system, because one day he will go away and the City will have to take it over. Mr. Burleigh said that last year they added two zones, and this year-to-date they have added four more zones. Mr. Burleigh said that when City Council looks at their data and complains about Memory Park they need to remember that when they are approving projects. Mr. Burleigh said the City has locked up the meter going into the pond, but there will be times when they will need to add water, so they will need to make a decision on what to do and have proper protocol. Mr. Burleigh said that he would be getting back with City Council on some other options.

Rebecca Huss commented on the cost of the well and advised that the cheapest cost is the drilling of the well. The expensive part is the permitting of the well. Rebecca Huss said it was a much more complicated issue versus just drilling and has a lot of other related costs. Mayor Jones said that this discussion needed to be saved for an agenda item.

Jon Bickford said that he was all for having this item on the Agenda, but his question was who is authorizing the additional zones for the Park. Rebecca Huss said that City Council did, they had talked about the bridge to the island. Mayor Jones again stated that this would need to be an Agenda item. Jon Bickford stated that he would like to have an Agenda item regarding this matter. Mayor Jones advised that they would do that.

Mayor Jones thanked Mr. Burleigh for his comments. Rebecca Huss said that she really appreciated the amount of time that Mr. Burleigh had put into making Memory Park as efficient as possible with water usage. Rebecca Huss said that Memory Park is a very beautiful location that does the City credit, and thanked Mr. Burleigh for everything that he does for the park. Mayor Jones also thanked Mr. Burleigh for all his efforts.

CONSENT AGENDA:

4. Matters related to the approval of minutes for the Regular Meeting held on April 26, 2016.

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

CONSIDERATION AND POSSIBLE ACTION:

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

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO MICHELE MARTIN FOR USE OF A PORTION OF PROPERTY LOCATED AT 14375 LIBERTY STREET, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

Rebecca Huss said that she had a couple of comments on the ordinance, as follows:

- Section 1. Grant of Permit – where it lists the address and states that it is located immediately adjacent to Liberty Street. She was not sure why the address was listed in addition to the location because it makes it sound like it is located outdoors. Rebecca Huss said that it should state that the business is located within the premises entirely. Mr. Foerster stated that it could be deleted from the ordinance and it could state that the business was strictly at that address. Rebecca Huss asked if there was any way that they could state that this is an indoor activity only, with no sidewalk sales, demonstrations, etc. Mr. Foerster said that it could read “that portion of the property located inside the premises of 14375 Liberty Street.”
- Page 2, Section 2(b) - it talks about the extension of the permit in five (5) years, with City staff having the authority to approve that permit. Rebecca Huss said that she would like to see the permit come before City Council for renewal. Mr. Yates stated that Subsection (l) states that the renewal is submitted to City Council. Jon Bickford said that section says it is subject to the “City” not “City Council.” Mr. Foerster said that they could delete the second sentence of Section 2(b) referencing City staff, because it is addressed in Section 2(l). Rebecca Huss said that Section 2(l) could be expanded to specify “City Council.” Jon Bickford said that they could do what Mr. Foerster recommended, deleting the second sentence of Section 2(b) and use Section 2(l) instead, adding “subject to City Council’s right to renew the permit upon request.”
- Rebecca Huss said that it does not address anywhere in the ordinance about the micropigmentation is located that this is only to occur on specifically the eyebrows

and eye shades. Rebecca Huss said that it could be under Section 2(e) or somewhere else, but that was one of the things that made most of them comfortable about the idea of the tattoos. Mr. Yates stated that in Section 1. Grant of Permit, fourth line, it states “for micropigmentation tattoo business for eyebrows and eye shade.” Jon Bickford said that he thought it was odd that it was not listed under the Section 2. Terms, Provisions and Limitations, which seems where it would be listed because of all the things that are specified in this section and the most important item of stating eyebrows and eye shades are left out. Mr. Foerster said that what they are proposing is Section 2(e) could add the words to the end of the sentence to include “of eyebrows and eye shades only.” Jon Bickford said that it could be its own letter.

- Jon Bickford asked about Section 2(f) because he did not know if it was the City’s right to state that someone can’t make changes to their property. Mr. Foerster said that they can delete that item. Jon Bickford said that he was trying to understand why that provision was in the ordinance. Jon Bickford said that it would be good if there would be no advertising at all on the outside. Rebecca Huss said that she would not want a bright neon sign that says “tattoos.” Mr. Yates advised that there would also be the Historic District sign review that they would be required to obtain. Jon Bickford asked whether that covered neon signs in windows and signs like that. Mr. Yates advised that it covered those signs. Rebecca Huss said not exactly, because that was something that came up when a merchant wanted space to display some of the brands that the owner had inside, so they have used stickers and paint inside, which is not governed by the Sign Ordinance. Mayor Jones asked what they want the ordinance to say regarding the signage. Jon Bickford said that it might be covered, but if the sign is behind the glass. Rebecca Huss asked how Ms. Martin was going to market her business. Ms. Martin advised that she would be marketing out of her suite. Ms. Martin advised that she also does massage therapy, so her business was more of a professional subdued business. Ms. Martin said she would not be having lights flashing will skull and crossbones or things associated with a tattoo parlor. Jon Bickford said that he understood where Ms. Martin was coming from, but tomorrow she could sell her business and get a new

owner in that location. Mayor Jones said that the ordinance states the permit is between the City and Ms. Martin and nobody else. Ms. Martin said that from what she had been told by the Westmont Building management as of now she is not allowed to do signs facing the one road, and facing Liberty Street the owner has a sign outside with a small area for each individual suite that will include the business logo. Mayor Jones said that everything in the ordinance states Ms. Martin, the owner of the business, so if she leaves, the new business would have to get a permit from the City. Jon Bickford asked the City Attorney if that would be the case. Mr. Foerster said that he had not thought of that, but Section 1 says that the permit is granted to Ms. Martin, so it is pretty clear that it is to her specifically and there is no right of assignment in the ordinance without coming back to City Council. Jon Bickford asked if they should state that in the ordinance. Mr. Foerster said if that would make Council feel better he could add that wording into the ordinance. Ms. Martin said if the permit goes through and she is allowed to have the business, she had a two year lease that she has to sign and if in two years she wanted to move to a different building, she would have to reapply with the State because their permits are site specific and she would have to get a letter from the City and asked if she would also have to go through this process again. Mr. Yates said that this permit is specific to the address stated in the ordinance. Jon Bickford said that if you were to move and she had been a good business, there could be less discussion.

Rebecca Huss moved to adopt the Ordinance granting a Special Use Permit to Michele Martin subject to the location, City Council being involved with the renewal of the permit in five years, issue with Section 2(e) adding “of eyebrows and eye shades” at the end of the sentence to name the placement of the micropigmentation placement, and the assignability clause as discussed.

Mr. Foerster asked if Council wanted a separate subparagraph under Section 2 that speaks that this permit is only good for eyebrows and eye shades. Rebecca Huss said that she felt that would be the clearest way to handle it. Mr. Foerster stated that they would leave Section 2(f) that is currently there. Jon Bickford said that he felt it was not their place to state that item since it was not the City’s building. Dave McCorquodale stated that the building would also be under the Historic District regulations. Mr. Foerster said that he

would strike that wording regarding the alteration or change to the outside appearance, character of the premises. Mr. Foerster said that he would agree with them on this matter.

Jon Bickford seconded the motion.

Discussion: Rebecca Huss asked Ms. Martin if she was okay with the changes that had been made to the document. Ms. Martin said that she was okay with the changes.

The motion carried unanimously. (4-0)

6. 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 CHARGES FOR RESIDENTIAL WATER AND SEWER SERVICE TAP FEES FOR CONSUMERS INSIDE AND OUTSIDE THE CITY PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; ESTABLISHING AN AMENDED SCHEDULE OF TAP FEES AS REQUIRED BY CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

Jon Bickford asked whether the \$550 fee being charged today includes a meter. Mr. Yates said that fee does not include that cost. Jon Bickford said that they were actually lowering the cost for irrigation meters. Rebecca Huss said that the cost today for the irrigation meter is \$550. Mr. Muckleroy said that the current \$550 charge includes the cost of the meter. Rebecca Huss said that the City was actually losing cash. Jon Bickford asked if it was a similar situation with the residential taps. Jon Bickford confirmed that the City was only obliged to provide water outside the City limits where they choose to have pipe in the ground. The Mayor said that was correct.

Mayor Jones asked whether previous ordinances addressed water taps outside the City limits, and are there any meters that are going to be outside the City limits, and should they be charged the same fee. Mr. Muckleroy said the tap fees are the same, but the water rates were higher.

T.J. Wilkerson asked what the sewer tap rate would be. Mr. Yates advised that the residential sewer tap fee would be \$2,600. Jon Bickford said that it would cost \$3,500 plus the cost of the meter to connect a home up to the system for water and sewer. Mr. Yates said that the meters were \$185. Mayor Jones said that would be \$3,700 for a new home to hook up the City. Rebecca Huss said that the \$2,600 reflects the average between the costs. Mr. Muckleroy said that right now the City is charging the customer \$550 when Gulf Utility does a sewer tap it is in the \$1,000 - \$1,400 range. Mr. Muckleroy said that Gulf Utility is giving the City a flat rate for the tap up to 8 feet deep and 40 feet in length, and anything that falls in that perimeter will be the \$1,300.

Jon Bickford moved to accept the ordinance as proposed. Dave McCorquodale seconded the motion.

The motion carried with 3-Ayes and 1-Nay vote by T.J. Wilkerson. (3-1)

Mayor Jones asked T.J. Wilkerson if he wanted to comment why he was opposed to the ordinance. T.J. Wilkerson said that he would rather not discuss the matter right now, but said that he had been talking to some people and the rate was a little too steep for them. T.J. Wilkerson said he told them that he would come back with a better understanding and have a comparison of certain areas and other cities. T.J. Wilkerson said that he felt that the rate was steep, but he was only one vote.

7. Discussion regarding 2015-2016 City Budget.

Mr. Yates stated that \$17,000 remains to be collected in ad valorem taxes, but since the tax will be coming in right at \$1,340,000 budgeted amount, even though we are over for the first six months, the \$321,944 under fines is actually a net of \$195,000 after the

payment to the state. The \$902,550 budgeted for wages will be increased by \$20,000 from the capital outlay for the additional officer that was hired in March. Mr. Yates advised that he had made a mistake during the preparation of the budget, leaving off Officer Flores from the personnel worksheet for the Police Department, which including benefits is a \$60,000 error that can be corrected through a budget amendment or just watch it for the remainder of the year. Mr. Yates stated that the general fund is approximately \$72,000 revenue over expenditure for this year and is doing quite well. Mayor Jones asked whether the \$20,000 from the capital fund was intended for the Police Department. Mr. Yates said that was for the part time person in the Police Department. Mayor Jones asked why it was put in capital if it was personnel. Mr. Yates said that he had been advised by the City Council to put it there to track the funds.

Mr. Yates said that the Capital Projects Fund shows a balance of \$20,000 but Mrs. Branco forgot to put in the \$50,000 TexPool Investment funds so that fund balance is actually \$70,000. Mr. Yates said that those funds are expected to go toward the waterline project going across Buffalo Springs Bridge.

Mr. Yates stated that for the Water and Sewer Fund, water revenues are expected to rise for the last six months so we can meet expectation of the budget. Mr. Yates said that right now they have \$46,000 deficit, but he felt that they would be able to make that up before the end of the fiscal year.

Mayor Jones asked if the budget needed to be amended. Mr. Yates said that he did not think that they would have any problems with the rest of the year. Mayor Jones advised that it would be approximately two months before they began Budget Workshops.

8. Consideration and possible action regarding borrowing funds for capital outlay projects.

Mr. Yates advised that they had a conference call with the Texas Water Development Board on April 25, 2016. Mr. Yates said that they wanted to compare their options as far as whether they would go out on the open market versus going to the Texas Water Development Board for funds.

Mr. Yates discussed the three different types of borrowing sources available through the state, which are the Texas Water Development Fund, which is state funds and includes fewer hoops during the process and has an interest rate of approximately 3.48% for a 30 year loan. The other two are the Safe Drinking Revolving Fund and the Drinking Water Revolving Fund. Mr. Yates advised that with the Safe Water and Drinking Water Revolving Funds the City can get multiple years of projects approved at once.

Mr. Yates advised the Financial Advisor and the City Engineer would prepare the application to the Texas Water Development Board. Mr. Yates said that there were funds available and they could have the application go before the Texas Water Development Board in November 2016, so they could receive funds in January 2017. Mr. Yates said that he was proposing to borrow over multiple years, with \$2.6 million this year, \$2.8 million the next year and the following year \$2.6 or \$2.7 million. Mr. Yates said that they can apply for the funds all at once and only pay interest after they close on the funds. Jon Bickford said that they would basically be applying and getting approval for \$7.5 million dollars up front, but will not pay interest until we receive the funds each year. Mayor Jones asked if the interest rate was going to be locked. Mr. Yates said that it would be whatever it was at the time of closing. Jon Bickford said that they are never going to get a better rate than they are right now.

Mr. Yates said that a reasonable expectation of what government contract projects would increase 4% percent per year. Mr. Yates introduced Mr. Gilley as the Financial Advisor. Mr. Yates said that he was asking City Council for some direction as to whether or not to proceed with the Texas Water Development Board or to go out to the open market.

Rebecca Huss asked how specific the grant was so that if they wanted to do something such as the water and sewer rerouting along SH 149 in advance of the widening of the road, and something happened would they be able to be flexible and use those funds for another water project or would they have to stick to the projects in the application. Mr. Yates said that he thought if it was an eligible project they could interchange the projects. Mr. Gilley stated that the City might have to ask permission to interchange the projects. Rebecca Huss said that they could have a list of planned projects.

Mayor Jones said that all the items were dealing with water and sewer, but if they had a need with roads would that be different. Mr. Yates said that they would have to do Certificates of Obligation for roads.

Jon Bickford moved to have Mr. Yates move forward and coordinate with the Financial Advisor and City Engineer to apply for Water Development Funding. Rebecca Huss seconded the motion. Mr. Yates said that during budget preparation he will be discussing a depreciation fund where they could use the capital projects fund that they currently have and set aside any surplus for future year's maintenance. Rebecca Huss said that the City has been dinged in the past by the Auditor for not providing for depreciation funds. Jon Bickford said that as their income increases they should be putting more funds aside versus spending more.

Rebecca Huss asked whether there was a prepayment penalty with the state. Mr. Gilley advised that the Texas Water Development Board rules prohibit prepayment until after ten (10) years. Mayor Jones asked whether it was better to amortize for more or less time for municipalities. Mr. Gilley said that it was always better if you can pay your debt off faster. Mr. Gilley said that if you are a growing city and you have a lot of future infrastructure needs you should look into the future to see how much you need to borrow. Mr. Gilley said that you never want to borrow longer than the useful life of the asset. Mayor Jones said that the City's growth rate in the next ten years is going to be astounding. Jon Bickford said that as a business he would want to borrow for the shortest term possible if they have high interest rates, and longer term with low interest rates. Jon Bickford said that the City has a lot of capital work that has to get done every year, and the contractors that come in make more money every year so for the big projects they need to borrow what we need to get the projects done sooner rather than later. Jon Bickford said that it was worth it to pay a little more interest to get all the capital projects done, but they need to be mindful that they don't finance projects that are worn out. Mayor Jones said that they also have to work within their revenue, because they don't want to have to raise taxes to borrow a lot of money. Jon Bickford agreed with the Mayor. Jon Bickford said that if they can get zero percent money today they need to take all that they can get within reason.

Mr. Gilley advised that the way the rates are determined, for clarification, the state will assess the City's ranking, which is AA-. Mr. Gilley said that they might have to buy a rating on the bonds to satisfy that requirement and hopefully the City will continue to maintain the AA- rating. Mr. Gilley said that the yield curve is typically ascending. Mr. Gilley said that borrowing from the state will require the City to go through more hoops, but the rates are very good. Mr. Gilley said that the numbers show the next several years, based on the assumptions, they should not have to raise water and sewer rates or raise taxes until 2019, depending on the City's property assessment revenue. Mr. Gilley also advised that it was not a step rate but each amortization schedule is like a separate loan.

Jon Bickford asked what Mr. Yates needed from City Council. Mr. Yates advised that according to the loan they are required to hire and use a Financial Analyst and bond counsel. Mr. Yates said that he needed direction regarding whether City Council wanted to pursue the Texas Water Development Board or go on the open market. Mr. Yates said that Mr. Gilley will provide the program information, application and do all the non-engineering paperwork with the Texas Water Development Board. Mr. Yates said that if City Council wants to go with the state then he will get Mr. Gilley to prepare the application and will get back with City Council with some type of contract. Jon Bickford asked if there was any reason why they should not go for the loan. Mr. Yates said there was not any reason.

Jon Bickford asked whether they should pursue the Texas Water Development Board versus the open market. Mr. Shackelford said that the Texas Water Development Board is going to require the City to have a Water Conservation Plan and Drought Contingency Plan, if you do not already have one. Jon Bickford stated that the City might have those. Mr. Shackelford said that they might need to be updated, so there will be a little bit of an expense related to those. Mr. Yates advised that the City had both of those plans. Jon Bickford said that he would ask that as they look at the capital projects, and they put them in groups, it would be helpful and useful to state the useful life of the new asset, so that they align the loans so that they are not amortized beyond their useful life. Mr. Gilley said that the state has advised that they have funds available in their 2016 annual cycle for drinking water and sewer water because they have not spent all the funds yet. Mr. Gilley said if they move quickly they might possibly be able to get some funds this year, but if

not they would have to wait until the next cycle. Mr. Fleming said that there is no guarantee when they go to the Texas Water Development Board, they will be awarded. Mr. Fleming said that the Board starts out with around \$80 - 100 million dollar range that is allocated first on an as need basis for water systems that are able to score high in terms of having health and compliance issues. Mr. Fleming said that he did not know after looking at the application that the City would be able to score high enough to rank up at the top and gain funding. Mayor Jones said that the City was mostly in a growth and safety mode. Jon Bickford said that if they had lead in our water, the City would get water a lot of money. Rebecca Huss said that the incentive with the funds available would be to front load the request, and asked if they were to get approved for \$3 million dollars for 2016, could they take some of the funds in 2016 and some in 2017 or would they have to start paying interest on all the funds immediately. Mr. Gilley said that sometimes the Board will ask the borrower to take money on a planning and design (PAD) basis, so you might not be able to take the construction money at that time, so he was not sure that he knew the answer to the question. Mr. Shackelford said that depending on the project, there is typically a six month design and approval process, and the sewer part might take a little bit longer. Mr. Shackelford said that the construction funds would not be needed until 2017. Mr. Gilley said that the state does not consider projects supporting developers, but that the City probably won't have that issue. Mr. Gilley said that there could be one or two projects that might not quite fit the state's profile that could require private financing or some depreciation sourced funding.

Mr. Gilley said that the purpose of the conference call with the state was to conduct a pre-application meeting for information for both the City and the state to ascertain needs and what the City would be eligible to receive and discuss the application process. Jon Bickford thanked Mr. Gilley for his information.

Jon Bickford moved to ask the City Administrator to move forward with the coordination with the Financial Advisor and City Engineer to apply for funding with the Texas Water Development Board. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said that they need to have a workshop or agenda item to prioritize which projects they need to work on first. Rebecca Huss said that they have the

SH 149 expansion and rerouting of the pipes, and there are a couple of other things that might not be urgent as when they first got the water and sewer infrastructure reports. If they have to do the projects in three years they will need to prioritize the projects. Mayor Jones said that the \$7.6 million listing with the three year breakdown was probably based on something with some type of prioritization amount the group. Mr. Yates said that was correct.

The motion carried unanimously. (4-0)

9. Discussion regarding the Capital Improvements Plan Advisory Committee.

Mr. Shackelford presented the information regarding impact fees and the steps necessary to establish an impact fee. Mr. Shackelford said that first the City Council would need to establish a Capital Improvements Advisory Committee. The purpose of the Committee would be to review the land use assumptions that they have identified for the City, and capital projects and associated costs. Mr. Shackelford said that from there they would have a public hearing that is called 30-days prior, where they would present at the hearing information about the land use assumptions and capital projects. The purpose of the public hearing would be to receive public input, and if there is input, they would go back and look at the land use assumptions and capital projects to make sure they did not miss anything or if they need to tweak them. Once that has been done, they will call a second public hearing to consider the impact fees associated with implementing the program. Following the second hearing the Committee would come back with recommendations to City Council.

Mr. Shackelford said that those that are involved in the Committee in the recommended seven (7) member board, and if City Council decides to impose impact fees in the extra-territorial jurisdiction (ETJ) because of utilities that would serve that area, one of those seven members needs to be a representative for the ETJ. Rebecca Huss asked if the seven members was an absolute limit. Mr. Shackelford said that it was his understanding that it was an absolute limit. Mr. Foerster said that it had to be seven members because the statute says seven members. Mr. Shackelford said that one stipulation states that one of the seven members needs to be a member or a representative from the development, real estate or construction industry so they have institutional knowledge of what is being accomplished.

Mr. Shackelford said that part of the purpose of the agenda item tonight was to have City Council to start thinking about appointees to the Committee. Mr. Shackelford said that some other cities have chosen to use the Planning and Zoning Commission and then added an ETJ representative that was from the construction industry.

Jon Bickford said that he wanted to make sure that he understood the information correctly, it looks like if they use our existing Planning and Zoning Commission they can get away with one representative for the ETJ. If they don't use the Planning and Zoning Commission and they put together an Advisory Committee, the rules are different and not less than 40% percent of the membership must be representatives of the real estate, development or construction industry. Jon Bickford said they can't have just one representative if they create a whole new Advisory Committee. Jon Bickford said that they need to find out if the Planning and Zoning Commission will accept the challenge, and then they will need to find a representative or would they create a whole new organization. Mayor Jones said that when he and Dave McCorquodale served on the Planning and Zoning Commission they served on this exact Committee that existed with people that were not Planning and Zoning Commission members. Dave McCorquodale said that there were four members that were on Planning and Zoning with two developers. Mayor Jones said that there were a couple of developers and a real estate agent. Jon Bickford said that they would not need that many if they chose to use the Planning and Zoning Commission. Mayor Jones said that they could get a couple of the Planning and Zoning Commission members and then go out and look for other interested parties. Mayor Jones said that he had given the City Administrator some recommendations for the group. Jon Bickford said that he thought that was a great idea. Rebecca Huss said that she felt it would be good to use the Planning and Zoning Commission structure because then they would not be forced to find enough developers to participate. Rebecca Huss asked if it would be possible to have more advisors that were non-voting members. Rebecca Huss said that it could be one or two people from City Council and Randy Burleigh. Mr. Shackelford said that the statute was specific about not allowing elected officials or City staff on the Committee. Mr. Shackelford said that the Committee had to have seven (7) members, so if they had the Planning and Zoning Commission with five (5) members they would have to add to people. Rebecca Huss said that they could find someone that represented the ETJ and was a developer, which could be covered by one person. Mayor Jones asked whether the Planning and Zoning

Commission was being worked pretty hard. Mr. Yates said that the Commission will have a radio tower, zoning change, along with the tree and light ordinances over the next couple months. Dave McCorquodale said that he felt the zoning classification and cleaning up the zoning map is a high priority issue to him, as is this issue, and he felt that the zoning map was a job in and of itself. Dave McCorquodale said that he tended to agree with the Mayor that the Committee in the interest of making as much progress as quickly as possible. Jon Bickford said that it sounded like City Council was all in agreement that they wanted to set the group up. Mr. Yates said that there is something to be said about a group that is used to working together. Rebecca Huss said that they also know the quality of work that the Commission provides.

Mr. Shackelford said that there might be some additional meetings that might not coincide with the Commission's schedule. Mr. Yates said that as a staff person, he was about tapped out as far as time, but he felt that most of the staff work would be done by the City Engineers. Mr. Shackelford said that the Advisory Committee would have to follow the same rules of posting their meetings as the City Council and Commission.

Jon Bickford said that the City should set up an Advisory Committee, which is a separate group that would be perfectly okay if someone from the Planning and Zoning Commission wants to serve on that Committee. Mr. Shackelford said that City Council would need to think about their recommendations to serve on the Committee and give them to the City Administrator. Then at the next City Council Meeting they will have an action item on the agenda to create the Advisory Committee, appoint the individuals that will serve on the Committee and set the public hearing date. Mayor Jones said that they can get a good list of people and make recommendations at the next meeting. Mr. Yates said that he would get with the Planning and Zoning Commission regarding the Committee.

Rebecca Huss asked if she were to talk to the Planning and Zoning Commission members would that be a walking quorum to discuss this matter. Mr. Foerster recommended that the City Administrator handle that matter with the Commission. Rebecca Huss agreed to let the City Administrator handle that matter. Mayor Jones said that if Rebecca Huss had someone in mind to serve on the Committee let the City Administrator know the name. Mr. Yates will talk to the people being recommended to make sure that they are interested. Mr. Foerster asked if this Committee would take about approximately 90 days to make this

happen. Mr. Shackelford said that was correct, and then they will need to meet every six months to review information, but most of the work will occur in that first 60-75 days.

Mayor Jones said the City currently has an impact fee zone that has not been looked at in a long time. Mr. Shackelford said that they can incorporate that review into this process. Mr. Foerster asked if there were Advisory Committee members that were appointed for that project. Mayor Jones said that they are all still around but it has been a long time. Mr. Foerster said that they might want to review that information and incorporate or get these new members to serve in that capacity. Mayor Jones said that it was probably a matter of just reviewing the numbers. Mr. Fleming said that there is a statute on the calculations, which he is assuming has already run out. Mr. Shackelford said that there was a five year period that is followed by a review. Mr. Shackelford said that if City Council decides to impose an impact fee, it is twelve (12) months before that goes into effect. Mr. Shackelford said that it would be a 15 month process before the City could impose the fee on new development.

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 current 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.

Mayor Jones asked if the voting on the ESD#2 passed. Mr. Foerster said that was correct. Mayor Jones said if someone develops outside our City limits, they City does not have a right to sales tax. Mayor Jones asked if City Council would want to revisit the agreement.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 7:48 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: 06/14/2016
Susan Hensley, City Secretary



Mayor Kirk Jones

