

**MINUTES OF REGULAR MEETING**

**September 8, 2015**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:03 p.m.

Present:	Kirk Jones	Mayor
	Jon Bickford	Position # 1
	Rebecca Huss	Position # 4
	Dave McCorquodale	Position # 5
Absent:	John Champagne	Position # 2
	T.J. Wilkerson	Position # 3
Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

**INVOCATION**

Larry Foerster gave the invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. 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. Washington advised that he did not want to speak even though he had submitted a request to speak. No comments were made during the meeting.

**CONSENT AGENDA:**

1. Matters related to the approval of minutes for the Public Hearing, held on August 20, 2015, Public Hearing held on August 25, 2015, and Regular Meeting held on August 25, 2015.

Rebecca Huss moved to approve the minutes as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

**CONSIDERATION AND POSSIBLE ACTION:**

2. Consideration and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS ADOPTING AN OPERATING BUDGET FOR THE FISCAL YEAR 2015-2016.

Mr. Yates advised that the City's general fund revenues are \$2,426,457 and the expenses are \$2,445,938, and \$40,380 funds being transferred in, which results in a balanced positive balance of \$918. Mr. Yates stated that in the water and sewer fund revenues are \$580,000, and expenditures are \$510,000. Mr. Yates advised that all other funds are balanced with positive revenues over expenditures.

Dave McCorquodale moved to adopt the ordinance adopting the 2015-2016 operating budget. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

3. Consideration and possible action to set by Order the 2015 Ad Valorem Tax Rate for Maintenance and Operations, \$0.2043/\$100.

Mr. Yates stated that this rate will bring in \$264,985 for maintenance and operations.

Rebecca Huss moved to set the 2015 Ad Valorem Tax Rate for Maintenance and Operations at \$0.2043/\$100. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

4. Consideration and possible action to set by Order the 2015 Ad Valorem Tax Rate for Debt Service, \$0.2112/\$100.

Mr. Yates advised that this rate would bring in \$264,985 for debt service.

Rebecca Huss moved to set the 2015 Ad Valorem Tax Rate for Debt Service at \$0.2112/\$100. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss stated that both rates have been the same for the last few years. Rebecca Huss commended and thanked Mr. Yates for doing a really good job making the budget work.

The motion carried unanimously. (3-0)

5. Consideration and possible action to adopt the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, SETTING THE AD VALOREM TAX RATE OF THE CITY OF MONTGOMERY, FOR THE YEAR 2015 AT A RATE OF \$0.4155 PER ONE HUNDRED DOLLARS (\$100.00) VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY AS OF JANUARY 1, 2015 SPECIFYING SEPARATE COMPONENTS OF SUCH RATE FOR OPERATIONS AND MAINTENANCE AND FOR DEBT SERVICE; LEVYING AN AD VALOREM TAX FOR THE YEAR 2015 PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR COLLECTION AND ORDAINING OTHER RELATED MATTERS.

Mr. Yates stated that the total tax rate is \$0.4155, which has remained the same for the last two or three years. Mr. Yates advised that due to an increased assessed property valuation, the amount of tax revenue that will be collected will increase.

Jon Bickford moved to accept the Ordinance as read, setting the ad valorem tax rate at \$0.4155 per \$100 valuation. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

6. Consideration and possible action regarding Approval of the 2015-2016 Operating Budget for the Montgomery Economic Development Corporation.

Mr. Yates stated that the Montgomery Economic Development Corporation ("MEDC") Board is recommending City Council approval of their 2015-2016 Operating Budget, as presented in the agenda pack. Mr. Yates stated that the main items in the budget are as follows:

- \$466,000 Sales Tax Revenue
- \$250 Other Revenue (interest)
- \$529,000 Projected Expenditures

Mr. Yates advised that this would result in a \$63,353 deficit, if everything in the budget is spent. Mr. Yates stated that they rarely even spend all the items listed in the budget. Mr. Yates said that this year they are approximately \$90,000 to the positive because of revenues coming in versus revenues going out. Mr. Yates advised that there was approximately \$610,000 in the MEDC cash fund reserved.

Jon Bickford said that he would prefer to have a zero budget, then allocate funds when needed. Mayor Jones, who also serves on the MEDC Board, said that the Board felt that they would be spending the funds that they have budgeted, and it would come out of reserves.

After discussion, Jon Bickford moved to reject the MEDC 2015-2016 Operating Budget as presented, and send it back to the MEDC Board.

Rebecca Huss seconded the motion.

Discussion: Rebecca Huss said that she would like to see a little less open ended items in the Budget. Rebecca Huss stated she would be okay with a deficit if there were specific projects that the money went towards.

Dave McCorquodale said the idea that has been kicked around about the Capital Projects Fund, still makes a lot of sense. Jon Bickford said that he did not disagree.

The motion carried unanimously. (3-0)

7. Consideration and possible action regarding approval of a contract with Municipal Code Corporation (Municode) for Recodification and supplementation services.

Krystal Hays, with Municipal Code Corporation (Municode) presented the information to City Council. Ms. Hays advised that Municode currently prepares the City's Code of Ordinances, and advised that Mr. Yates and the City Secretary, Susan Hensley, had contacted them regarding Recodification.

Ms. Hays said that Recodification means that they will take the existing Code and all the ordinances that have not been codified, will be re-categorized and do a total review of the Code to locate any conflicts with State law or other ordinances.

After discussion, Rebecca Huss moved to approve the Contract with Municode for Recodification and Supplementation Services. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

Rebecca Huss thanked Ms. Hensley for saving the City several thousand dollars by doing some of the work herself, and getting everything organized so that it was a little less daunting for Municode. Ms. Hensley also advised that Municode would get started on the Recodification early, since they have the information, and will invoice the City in the new budget year after October 1, 2015.

8. Consideration and possible action regarding approval of a Gateway Monument Agreement with Milestone Properties, Inc. (Tabled at the August 11, 2015 Meeting.)

Mayor Jones advised that the reason the item was tabled was so Milestone could combine two sets of drawings into one drawing.

Mr. Foerster said that since the last meeting he had incorporated the term "electrical" under Article 3, paragraph (1), stating the obligations of the developer. Mr. Foerster said that Jon Bickford had pointed out that he did not want to assume that electricity would be included in the maintenance agreement, and it was not spelled out in the agreement. Mr. Foerster said that the site map under Exhibit "A" is the same as the one in the development agreement with Milestone, and Exhibit "B" is the actual sign. Mr. Foerster said that he had sent everything to Patrick Barry, and since he has not heard back from Mr. Barry he felt that he was fine with the document. Mr. Foerster said that he would recommend that if City Council is comfortable with the design, that they go ahead and approve the Gateway Monument Agreement.

Rebecca Huss asked if the City Attorney could have a discussion with Milestone regarding building materials. Mr. Foerster stated that he had not heard back from Mr. Barry, and he did not think to ask him about the red, white and blue on the star. Mr. Foerster said that the colors were not requested by City Council, and he thought that the

architects took some liberty with the design. Mr. Foerster said that if the agreement is passed, he would certainly want the motion to state that the City approves the Monument Agreement with design, as long as the price does not exceed \$50,000.

Mr. Foerster advised that in the Development Agreement, Milestone agreed to do a Monument Agreement, as long as it did not exceed \$50,000. Mr. Foerster said that in his understanding and belief, this can be done for \$50,000, however, if they start adding colored brick and other things, then it could escalate the price. Jon Bickford said that he did not want painted grass or concrete. Mr. Foerster said that would be tacky because it would fade and chip. Mr. Foerster said that he would ask for clarification on that information.

After discussion, Jon Bickford moved to accept the Gateway Monument Agreement, pending resolution of the final design of the star foundation by the City Attorney.

Rebecca Huss said that it should have the stipulation that the entire project meets the \$50,000 criteria. Rebecca Huss said that they did not want to have to pay for any overages.

Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

**9. Discussion of GRP and LSGCD fees and setting a public hearing for possible fee increase.**

Mr. Ed Shackelford, City Engineer, advised that during the City Council Workshop Meeting held two weeks ago, they had discussed how the current Groundwater Reduction Plan ("GRP") and Lone Star Groundwater Conservation District ("LSGCD") fees were not providing the appropriate funding for expenses. Mr. Shackelford said that currently they are charging \$1.25 per 1,000 gallons for the GRP fee for inside the City, and the City is paying \$1.80 per 1,000 gallons to Montgomery County Utility District 3 and Utility District 4 to be a participant in the GRP. Mr. Shackelford said that was for any water pumped out of the City's Well #2 and Well #3.

Mr. Shackelford said that he will be recommending to City Council to increase the GRP fee from \$1.25 per 1,000 gallons to \$1.50 per 1,000 gallons. Mr. Shackelford said that the proposed ordinance has the ability to charge a surcharge on the GRP fee. Mr. Shackelford said that they ran the accountability at 90% percent in lieu of 100% percent. Mr. Shackelford said that at 100% percent, they might recommend a 10% percent

surcharge on the GRP fee. Mr. Shackelford said that right he would suggest the surcharge being no more than 5% percent, which is about 3-3.5% percent.

Mr. Shackelford said that the LSGCD fee is 6 cents per 1,000 gallons, and he is recommending that fee be the same for the City, with a surcharge of 1 cent per 1,000 gallons to cover administrative costs, unaccounted for water loss in the system and other minor maintenance costs associated with the LSGCD fee.

Mr. Yates advised that this item was only for discussion tonight, because City Council will need to set a Public Hearing for the next meeting, and a legal notice will be published in the newspaper. Rebecca Huss asked if a presentation could be prepared to put on the City's website showing some of the information that was presented at the last Workshop Meeting. Mr. Shackelford said that he could do that because there is a lot of information the review.

Dave McCorquodale moved to set a Public Hearing to be held on September 22, 2015 to discuss the GRP rates and the Lone Star Groundwater Conservation District fees. Rebecca Huss seconded the motion.

Discussion: Dave McCorquodale advised that the time of the Public Hearing would be 6:00 p.m.

The motion carried unanimously. (3-0)

10. Consideration and possible action regarding approval of the contract for COBRA Continuation of Coverage Administration Agreement with TML MultiState Intergovernmental Benefits Pool. (City's Medical/Dental/Vision Insurance Provider)

Mr. Yates advised that this related to administrative services for the management of COBRA services for the City in conjunction with the Human Resource officer for the City, who is Ms. Hensley. Jon Bickford asked if the fee was \$110 per year. Mr. Yates advised that was correct.

Jon Bickford moved that they move forward with the continuation of the contract for COBRA Continuation of Coverage Administrative Agreement with TML MultiState Intergovernmental Benefits Pool. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

11. Consideration and possible action regarding declaring the Onan 75K generator as surplus property, and authorizing sale of the generator.

Mr. Yates advised that this 75 kw generator that the City had put money into a couple years ago and is still not working correctly. Mr. Yates said that the Public Works Foreman, Mike Muckleroy said they he feel that the generator should be declared surplus, and that it is not worth additional funding. Mr. Yates said if the generator would be declared surplus, then Council could authorize him to sell the generator.

Rebecca Huss moved to declare the Onan 75 kw generator as surplus property, and authorize the sale of the generator. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

12. Consideration and possible action regarding awarding the City Mowing Contract.

Mr. Yates said that there is no difference in the fees or the current agreement that the City has with 3<sup>rd</sup> Day Creations Lawn and Landscaping. The contractor has asked for a couple year contract so that he can buy better equipment. Mr. Yates said that he understands there is a question regarding mowing within the subdivisions or in areas such as Houston Street, Caroline Street, and portions of College Street. Mr. Yates made a suggestion that they might withhold that part of the contract that is located within a subdivision. Mr. Yates advised that the cost for mowing in those areas is approximately \$150 per mowing, which is \$300 per month.

Mayor Jones asked if the City needed to renegotiate the contract if they decide not to mow the residential areas.



Mayor Jones said that the City cannot make someone mow the City's Right of Way. Mr. Foerster said that was correct, you cannot make somebody mow City property.

Mr. Yates said that he could renegotiate with the contractor so they are only paying for is actually mowed.

Jon Bickford moved to table the City Mowing Contract until they come up with some different options. Dave McCorquodale seconded the motion.

Discussion: Dave McCorquodale said that what might have been the heart of this agenda item is to the point of developing a long term relationship so that the contractor can invest in things that will save him time and money, which should in turn save the City money. Dave McCorquodale said that he did not think any of Council was opposed to that, they just have some internal stuff regarding how they will handle the Right of Ways.

Jason Ewing advised that this would be his fifth summer to mow for the City. The most complaints that he has received from anybody is the elderly that cannot cut their ditches and Right of Ways.

Jon Bickford said that he did not have any issue with the examples that Mr. Ewing brought up, but he did have other examples of developers just not doing their own mowing. J said that the developer on Minera Lane wants him to mow his lots, and they are his lots that he is building houses on.

Mayor Jones said that there was a motion and a second to table action on this item. Mayor Jones said that Council has made a point that it is likely, if they can figure all the items out, they will continue services with Mr. Ewing. Mayor Jones said that they were not trying to make a change. Jon Bickford said that he thought they were just considering what they were and were not going to mow.

The motion carried unanimously. (3-0)

13. Consideration and possible action regarding Montgomery County Tax Assessment and Collection Services Agreement.

Mr. Yates advised that this is the annual renewal of the annual Agreement with the County Tax Assessor-Collector that costs \$10,000 per year.

Jon Bickford moved to adopt the Montgomery County Tax Assessment and Collection Services Agreement and appoint Tammy McRae as the City's Tax Assessor-Collector. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

14. Consideration and possible action regarding appointments of Planning and Zoning Commission Board Members.

Mayor Jones said that they had talked about waiting until November to appoint them members, but the Planning and Zoning Commission is running with only three members, which is a quorum. Mayor Jones stated that the Commission often has very important business and the lack of a quorum could really be a problem. Jon Bickford asked how many openings were on the Commission. Mayor Jones advised there were two openings. Mayor Jones advised that they had received two applications from Jeffrey Waddell and Carol Langley.

Jon Bickford moved to move forward with candidate, Jeffrey Waddell to fill one position on the Planning and Zoning Commission, and candidate, Carol Langley to fill the other position on the Planning and Zoning Commission. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

15. Discussion and possible action regarding Annexation of SH 105 – east and west of the City of Montgomery.

Mr. Foerster advised that a couple of weeks ago Chief Napolitano had expressed his concern related to SH 105 going out of the City by the Methodist Church, and going west toward the Lone Star Parkway just past the high school. Mr. Foerster stated when the

City annexed the south part of SH 105, by the Montgomery ISD High School, apartment complex, and sports complex, those areas were annexed, but the City did not annex that portion of the highway and right of way between those two properties extending out to Lone Star Parkway.

Chief Napolitano has asked if there was any way that they could annex that area so that his officers could patrol that area and control speeding. Mr. Foerster stated that there is a provision in Chapter 43 of the Texas Local Government Code that allows cities to annex those roads that are contiguous to and along the city limits.

Mr. Foerster said that what they are asking City Council to consider tonight, is whether they want staff to move forward with the process of annexing at least that portion of road, which he thought was close to the Methodist Church, and extending out to at least the Lone Star Parkway, on the west side of the City. Mr. Foerster said that they might want to consider doing the same thing on the east side of the City, going to Stewart Creek Road. They have annexed the Rampy property and so forth all the way down to Stewart Creek Road, but they have not annexed SH 105. Mr. Foerster said those were the two options being presented to City Council. Mr. Foerster said that there was a process that they would have to follow for the annexation, and he would have to check on whether they would be required to have a public hearing.

Mr. Foerster said that the City would not have to worry about maintaining the road, but would have the authority to issue tickets in that area and present those tickets to Municipal Court as opposed to presenting them to J.P. Court.

After discussion, City Council concurred to have staff move forward and start the proceedings for annexation of SH 105 on the east and west sides of the City. Mayor Jones said that any future annexations, they need to do the same thing.

16. Summary presentation of Water and Sewer Rate Analysis findings.

Mr. Glynn Fleming, Associate Engineer, made the presentation to City Council of the summary of the Water and Sewer Rate Analysis findings.

Mr. Fleming said that he worked directly from the Bookkeepers Report that pertains to the current fiscal year and using the average annual water production from 2006 to present, assumed the accountability of 90% percent of the estimated annual water billed to the City customers. This establishes the base production costs. Mr. Fleming advised that on the water side, the cost is approximately \$4.67 per 1,000 gallons.

Mr. Fleming advised that the City has several different types of billing criteria, he pulled out two, which are in-City residential client and institutional client. Mr. Fleming said that they analyzed about 4-5 years of billing data, and he pulled out the last calendar year to come out with these figures. Mr. Fleming said that the average in-City user uses approximately 6,600 gallons of water per month, and when they apply the current water rates against the base production costs it represents a net short coming of revenue and loss to the City of (\$3.42).

Mr. Fleming said that they used the same logic on the sewer side, and the loss was more substantial at (\$41.06) per month for the average customer.

Mr. Fleming advised that the second billing classification they chose was the average institutional user, which are primarily the school campuses and some of their support facilities. The average institutional user's billed consumption billed is 156,000 gallons, and there is a net revenue on the water side, where the City is gaining about \$32.00 per month. However, looking at the sewer side, where the institutional user has a flat fee of \$75.00 per month and \$2.00 per 1,000 gallons, which represents a net loss of (\$1,122.38).

Mr. Fleming said that they have broken out the average in-City residential user and average institutional user from the GRP standpoint. Mr. Fleming stated that the figures were based on the current pass through figures of \$1.25 per 1,000 gallons for the GRP fee, and LSGCD at \$.07 cents per 1,000 gallons. Mr. Fleming advised that the average in-City residential user has a net loss of (\$1.31), and the average institutional user has a net loss of (\$30.85). Mr. Fleming said that this information is based off of current rates as of a couple of weeks ago. Mr. Fleming advised that as of September 1, 2015, the SJRA rate has risen to \$2.32, so the City's rate to Montgomery UD#2 and #3 has risen as well.

Mr. Fleming reviewed the overall view of groundwater revenues and expenses as they stand today. Mr. Fleming said on an annual basis there is a groundwater reduction expense of \$260,749 and the revenue is \$78,005.21 for a net loss of (\$182,744.25).

Mr. Fleming advised that his intent was not that there would be a direct action, but was just to provide a synopsis for what they had provided to City Council and to start a dialogue.

Mayor Jones said that what they are saying is the City does not charge enough for water and sewer. Mr. Fleming said that was probably a valid statement. Mayor Jones said that they can't charge enough to cover the costs, without upsetting everyone, so what do they do.

Mr. Shackelford said that another factor that has not been mentioned is on the planned developments, the developers that built utility lines to extend into their new areas, but to our knowledge, they have not paid capital contributions to the City for water and sewer plant capacity. Mr. Shackelford said that the tap fees that are charged do not cover the costs.

Mr. Shackelford said that their intent was to bring the analysis of what they had presented at the Workshop Meeting, and to suggest Council might want to have some public meetings with the residents.

17. Consideration and possible action regarding items related to the Milestone/Kroger Development including:
  - a. Approval of Engineer's Joint Contract Documents Committee Engineering Services Agreement ("EJCDC ESA") between the City and Jones & Carter, Inc.
  - b. Authorize Jones & Carter, Inc. to proceed with preparation of construction documents for public utility extensions and paving.

Mr. Shackelford said that Agenda number 17 and 18 are similar, only the project description is different. Mr. Shackelford advised that the Department of Agriculture

requires that you use a standard form for professional engineering services agreement, and the form used for the Agreement executed in November is not that form. Mr. Shackleford said that he has prepared the required agreement form based on the engineering costs that were part of the application for the Milestone and Pizza Shack Projects. Mr. Shackleford said that it states that these agreements are project specific, and the rates and schedules for reimbursables are the same as the November agreement. Mr. Foerster said that he did not have a problem with Council approving the contract.

Mr. Shackleford said he was asking for approval of the contracts and authorization to proceed with the projects, once the City receives the signed agreements from the State. Mr. Foerster said that he has no problem with City Council approving the contracts, he just wanted to bring to their attention how the form is written. Mr. Foerster said that it is important that they move forward with these projects.

After discussion, Rebecca Huss moved to approve the Engineer's Joint Contract Documents Committee Engineering Services Agreement between the City and Jones & Carter, Inc., and to authorize Jones & Carter, Inc. to proceed with preparation of construction documents for public utility extensions and paving relating to the Milestone Kroger development. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

18. Consideration and possible action regarding items related to the Pizza Shack development including:
- a. Approval of EJCDC ESA between the City and Jones & Carter, Inc.
  - b. Authorize Jones & Carter, Inc. to proceed with preparation of construction documents for public utility extensions.

Rebecca Huss moved to approve items related to the Pizza Shack development including approval of the EJCDC ESA between the City and Jones & Carter, Inc., and to authorize Jones & Carter, Inc. to proceed with preparation of construction documents for public utility extensions relating to the Pizza Shack development. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

### **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.

19. Convene into closed Executive Session as authorized by the Texas Open Meetings Act, Section 551.074 of the Texas Government Code, to conduct the City Administrator's six month review.

Mayor Jones convened into closed Executive Session at 8:22 p.m.

Reconvene into Open Session to act if necessary on matters discussed in Executive Session.

Mayor Jones reconvened the meeting at 8:35 p.m.

### **POSSIBLE ACTION FROM EXECUTIVE SESSION:**

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

Rebecca Huss moved to increase the salary of Jack Yates, City Administrator by \$20,000 beginning on October 1, 2015. Jon Bickford seconded the motion, the motion carried unanimously. (3-0)

### **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 8:38 p.m. Dave McCorquodale seconded the motion, the motion carried unanimously. (3-0)

Submitted by:

*Susan Hensley*  
*Kirk Jones*

Susan Hensley, City Secretary

Date Approved:

*09/22/15*

\_\_\_\_\_  
Mayor Kirk Jones

