

**MINUTES OF PUBLIC HEARING and REGULAR MEETING**

**August 11, 2015**

**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                Position # 1  
                  T.J. Wilkerson             Position # 3  
                  Rebecca Huss             Position # 4  
                  Dave McCorquodale      Position # 5

Absent:         John Champagne          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 HEARING:**

**Convene into Public Hearing:**

Mayor Jones convened into Public Hearing at 6:02 p.m.

1. **Public Hearing for the purpose of hearing public comments regarding the proposed 2015-2016 City of Montgomery Operating Budget.**

Mr. Yates reviewed the following Budget information:

- General Fund Balance - \$2,059,128
- Surplus Balance- \$20,000
- Debt Service Balance (after payments) - \$92,000
- Water/Sewer Fund Balance- \$197,000
- General Fund Revenues - \$2,386,000
- General Fund Expenditures - \$2,366,000

Mr. Yates advised that he had spoken with the Tax Assessor/Collector yesterday, and the tax levy will be .2112 Debt Service and .2043 Maintenance and Operations, for a total tax rate of .4155.

Mr. Yates said that the tax rate would be the same as last year, which will be the third or fourth year in a row. Mr. Yates advised that there had been an increase in property valuation from \$95 million to \$113 million. Mr. Yates said that most of the increase is due to new construction.

Rebecca Huss stated that she appreciated the work that Mr. Yates put into making the budget balance, given inflation, etc., and having a significant amount of additional services without having to raise taxes. Mayor Jones also thanked Mr. Yates.

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.

Ike Fluellen - candidate for Constable Precinct 1, Montgomery County, introduced himself and stated that he has 38 plus years of experience.

Sarah Mabry - advised that she would wait to speak on Agenda Item #4.

Phillip LaFevre -- updated City Council regarding the townhomes that he is building across from the library. Mr. LaFevre said that they have built eight of the 16 planned units, and for whatever reason people are not rushing to buy them. Mr. LaFevre said that they do not want to build the remaining units with the same design. Mr. LaFevre said that they do not want to change the plat particularly. They want to keep the greenbelts and do everything else, but he would like to come back with some generated designs that actually separate the houses. Mr. LaFevre said that the resistance is the party wall and the single roof. He said that they want more grass and they don't like the single roof. Mr. LaFevre said he would like to separate the buildings within the plat that they already have. Mr. LaFevre said that he had advised the Planning and Zoning Commission last night.

Bee Rouse and Lynn Perverill – spoke about the Community Painting, the original drawing was by Joe Cobb from Conroe and features the Jardine Cabin in Fernland. Ms. Rouse advised that the drawing would be auctioned off at this year's Texian Festival on October 17. Ms. Rouse said that they will have the new Community Painting there that the public can start working on. Ms. Rouse said that this was the first draft of what they want to display. Ms. Rouse will add a photo of some of the people painting it and they would like to display the painting at City Hall.

Ms. Lynn Perverill is working on the statues at Cedar Brake Park. Ms. Perverill said that the Art League will have three or more tents with various art. Ms. Perverill will have a new piece for people to interact. Ms. Perverill stated that they would love to see a successful auction and have it be something that they do every year.

Ms. Rouse advised that the five beneficiaries this year that receive 20 percent of the profits are: Fernland, Montgomery Historical Society, Meals on Wheels of Montgomery County, the Coat of Many

Colors Ministry, and Cayden's Hope. Ms. Rouse advised that the Festival will be on October 17<sup>th</sup> at 10 a.m. – 5 p.m.

James Langley – advised he would speak on Item #10.

### **CONSENT AGENDA:**

2. Matters related to the approval of minutes for the Regular Meeting held on July 28, 2015.

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

### **CONSIDERATION AND POSSIBLE ACTION:**

3. Consideration and possible action regarding taking a vote on the proposed 2015 Tax Rate for the City of Montgomery.

Mr. Yates advised that he had spoken to the tax assessor/collector yesterday, and she had some new figures for him. Mr. Yates said that the debt service rate needs to be .2112 for debt service and .2043 for maintenance and operation for a rate of .4155. Mr. Yates said that because they will be going over \$500,000 this year the Council will have to conduct two public hearings with a notice in the newspaper. Mr. Yates said that it gives him the opportunity to ask whether Council wants to approve the budget at the next meeting, because they won't be able to approve the tax rate until the September 8, 2015 meeting. Mr. Yates advised that the dates of the public hearings could not be more than ten days or less than 14 days from the date of adoption. Mr. Yates recommended that the first Public Hearing would be held on August 20<sup>th</sup> and the second on August 25<sup>th</sup>.

After discussion, Rebecca Huss moved to adopt the proposed tax rate for Debt Service at .2112 and Maintenance and Operations at .2043 for a total proposed tax rate of .4155. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

Mayor Jones confirmed that the first Public Hearing on the Tax Rate will be held on August 20, 2015 at the Special Meeting, and the second Public Hearing will be held on August 25, 2015, with the adoption of the Tax Rate on September 8, 2015.

4. Consideration and possible action regarding Final Plat for Terra Vista at Waterstone, Section One. (Tabled at the July 28, 2015 Meeting)

Mr. Fleming reported to City Council at a previous meeting that the Planning and Zoning Commission had elected to table action on the submission of this plat and the construction drawings, pending resolution of off-site drainage issues that were raised by the adjacent property owner. Mr. Fleming advised that a meeting was held at City Hall on August 3, 2015, with representatives of the Mabry family, their engineer, representatives of Waterstone Development, their design engineer, City Administrator, Mr. Shackelford and myself were present. Mr. Fleming advised that all parties came out of the meeting with an agreeable resolution. Mr. Fleming stated that the issues at hand were threefold: 1) flow rate of water coming off the property, 2) conveyance of water to Atkins Creek, and 3) what mechanism would be in place to assure that it would remain in place for the future. Mr. Fleming said that they had reviewed the revised plat submission and construction

drawings. Mr. Fleming advised that he had recommended approval to the Planning and Zoning Commission, which would also be his recommendation to City Council.

Mrs. Mabry thanked the Planning and Zoning Commission for their intuitive guidance that they provided, City Council, her neighbor and his staff, her family, the City staff and engineers for their wisdom and guidance to help everyone. Mrs. Mabry said that Montgomery is really the architects of the future and is one of the "most happening" places in Texas. Mrs. Mabry thanked City Council on behalf of her family.

Jon Bickford asked how the water will be routed. Mr. Fleming provided a visual to show the water flow. Mr. Fleming said that there is a permanent drainage reserve that has been platted as Restricted Reserve A, which will remain in place as a drainage easement. There is a channel that will convey flow across the property line. Mr. Fleming advised that there would be earthen berms. Jon Bickford asked who would maintain that area. Mr. Fleming said that is a public easement. Mr. Shackelford said that it was his understanding that the POA would maintain that property, and not the City. There will be houses on either side of that lot. The City would be responsible for cleaning out the storm sewer, not mowing.

Dave McCorquodale asked about the flow. Mr. Fleming said that it would be a nice easy drain flow through the storm sewer into the creek. Mr. Fleming advised that it was platted to remain there in perpetuity and would have to come back before City Council to change the Restricted Reserve. Mr. Shackelford said that the storm sewer was designed to take the pre-developed flow, if and when the Mabry property develops, they would be responsible for the developed flow and getting it to Atkins Creek.

Dave McCorquodale moved to approve the Final Plat for Terra Vista at Waterstone, Section One. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding a Memorandum of Understanding for Fernland Park by and between the City of Montgomery and Fernland Park, Inc.

Mr. Yates advised that City Council had asked him to work on agreements for all three of the City Parks. Mr. Yates advised that Mr. Mike Newman, Chairman of the Board for Fernland Park, Inc. has signed the Agreement.

Mayor Jones said that the agreement describes what has been going on from the beginning and now it is down on paper.

Jon Bickford commented on number 8, which states that Fernland keeps all donations and funds generated on the grounds. At Fernland, the City has two employees that give tours where donations are made. Jon Bickford said he has a problem from a fiscal responsibility standpoint. Those donations are generated by the park and going into a black hole, and the City has no idea how much money is collected, where it goes, and what it is spent on. The City has no control of the funds. Jon Bickford said that he also feels that is true of the other parks. Jon Bickford said if the citizens are making donations to make the park better, and he has no problem with that.

Mayor Jones said that a quarterly or annual financial report by each non-profit group would provide the information that they wanted. Mayor Jones said he did not know if the City needed to take custody of the funds, and asked the City Attorney to address the matter.

Mr. Foerster advised that he tended to agree with Jon Bickford that there needed to be some accountability simply because we own the park and are responsible for the property improvements. However, most people make donations based on the energy and drive of the people involved with the day to day operations, and think they are making the donations to them. His concern that if they think they are making the donations to the City of Montgomery, they might be less inclined to make the donations.

Mr. Foerster said that he agreed that paragraph 8 of the agreement should have more accountability, and might give the City Council more comfort on what donations are coming in and what is being paid. Jon Bickford said that they have a responsibility to keep those buildings maintained and know where the funds come from. Jon Bickford said that they have some of the most amazing parks in the State, and the most parks per capita. Mr. Foerster said he did not draft the MOU and sees it as a partnership and there is no contractual obligation to either party, it is designed to memorialize what has been done for quite some time. If there are issues regarding the funds, it is appropriate to include the information.

Mayor Jones said that Memory Park is a completely different animal on where the funds come from. Mr. Don Carter advised that he was on both of those Boards and said that there is a Treasurer's Report prepared every month detailing every penny for each of those Parks. Mr. Carter said that City Council is more than welcome to get a copy of that Report, and if this is not transparency he does not know what is.

Mr. Carter said that they have the same obligation to be transparent and they have had many meetings to make sure of that. Mr. Carter said that Rotary Club and Montgomery County Foundation has approximately \$40,000, which generates revenue every year for Memory Park and is very well accounted for. Mr. Carter said that same Foundation has donated to Fernland and that is very well accounted for, and if Council wants the numbers they will provide them.

Mayor Jones asked if Council would be satisfied with a monthly financial report. Rebecca Huss said that she would be happy with an annual report and a minor tweak to the process. People are happy with the beautiful parks and everyone has done amazing work. Rebecca Huss said that maybe they table the items to tweak the Memorandum to incorporate the financial information.

Mr. Yates advised he would work with the City Attorney on the wording. Jon Bickford said that they need to have a consistent form. Mayor Jones said that he did not think that the City should direct control or say regarding the non-profit's money, we may or may not approve projects.

Jon Bickford said he did not know what level the project should be to come to the City, whether it is \$500, he did not know, and thought that should be addressed. Jon Bickford said that they have to be mindful of Capital Improvements.

Jon Bickford moved to table the Agreement for Fernland. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

6. Consideration and possible action regarding a Memorandum of Understanding for Memory Park by and between the City of Montgomery and Lake Conroe Rotary Club.

Dave McCorquodale moved to table to Agreement with Memory Park. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding a Memorandum of Understanding for Cedar Brake Park by and between the City of Montgomery and Patrons of Cedar Brake Park.

Dave McCorquodale moved to table the Agreement with Cedar Brake Park. Rebecca Huss seconded the motion. the motion carried unanimously. (4-0)

8. Consideration and possible action regarding adoption of a Gateway Monument Agreement by and between the City of Montgomery and Milestone Properties, Inc.

Mr. Foerster advised that he had not received the final design from Patrick Barry's architect, who has been on vacation. Mr. Foerster asked if there were any comments on the Agreement.

Mayor Jones asked if the purchase and installation of the flag pole will be the responsibility of the City. Mr. Foerster said that the way that he is reading it, since he drafted it, the maintenance and repairs, raising and lowering of the flag, and replacement of the flag, as appropriate, would be the responsibility of the City. All the other maintenance and repairs and construction of the Gateway Monument will be the developer's expense and they understand that. Mr. Foerster said that he thought they were okay with the wording. The lessee directly behind the monument will have the responsibility of maintenance of the monument. Mr. Foerster said that because there will be lights on the flag it will not have to be taken down every night. Mr. Foerster advised that he can add that the electricity will be paid by the developer.

Mr. Foerster suggested tabling.

Rebecca Huss moved to table the Gateway Monument Agreement. Dave McCorquodale seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action regarding purchase of VFD Inverters or (2) two – 5 HP Pumps for Lifts Station No. 8, Berkley Lift Station.

Mr. Fleming advised that due to the ragging problem at Lift Station No. 8, they need to consider upgrading the pumps. The utility operator is being called out approximately three times a week, cost for regular hours \$200-\$400, and after hours \$800. Mr. Fleming advised that NTS had provided a quote, but for him to give a recommendation in good conscience, he needed more information. Mr. Fleming said that he would like to have an itemized estimate to bring to City Council to describe the exact scope of work. Rebecca Huss asked for an approximate range. Mr. Fleming said it could be \$18,000 - \$20,000. Jon Bickford asked if that would be the last pump that the debris will see. Mr. Fleming advised that it

would go through two more Lift Stations before the Treatment Plant. Mr. Fleming advised those two Lift Stations would have significantly larger pumps. Jon Bickford asked if there was any option for a grinder. Mr. Fleming said he will also get an estimate for a grinder pump. Mr. Fleming then recommended tabling the item.

Jon Bickford moved to table this item until the City Engineer can get more information. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

10. Consideration and possible action regarding placement of Speed Bumps on the following streets: College, Berkley and Martin Luther King, Jr. Drive.

Mr. Yates said that he was not sure that this item required Council action, but since it was such a group of requests all at once, he wanted to present the information. Mr. Yates stated that on College Street they want a speed bump in front of 826 College Street, and another one 70 feet west of 924 College Street. Mr. Yates said that all three of the citizens that he spoke to said consistent speeding was the reason for the request. Mr. Yates advised that each of the speed bumps cost \$600.

Dave McCorquodale asked if this was a dead end street, and whether it is one person speeding down the street.

Mr. James Langley said that he has drivers going to the high school that try to find a short cut. They come down College Street, but when they get to the end they find out it is a dead end. Then they turn around and speed out. Mr. Langley said that he invited Mr. Yates to come down and he introduced him to Mr. Keller, who has nine children. Mr. Langley advised that his two grandchildren are at his home half the year.

Mr. Langley said even the mail carrier gets to max speed every time and it is dangerous. Mr. Langley stated that with Lone Star Estates, they come on College Street from Eugenia and they do not slow down going into or coming out of Lone Star Estates. Mr. Langley said if they had a speed bump between Lone Star Estates and Eugenia, and one before the Keller house, then below the Keller house. Mr. Langley said that Mr. Keller would not mind if there were ten speed bumps in between his house. Mr. Langley said that they need a speed bump just beyond his house to slow down traffic, because from his house does not have a mailbox, so the carrier flies by. Mr. Langley would like Council to move forward on College Street because it is very important.

Jon Bickford asked if Mr. Yates had spoken to the residents regarding the speed bumps on Berkley. Mr. Yates advised he did not, but the HOA had requested them. Jon Bickford wanted to make sure that people would be happy with them, and they would be placed in the right places. Mr. Yates stated that he had received an email from the HOA.

Mayor Jones advised a little history on Berkley, they had put one speed bump in because of the school traffic flying down the street years ago. Rebecca Huss said that if they are like Old Plantersville Road, they are sharp, and if they don't slow down it will tear up their vehicle.

Mr. Yates advised that there is one more being requested on Martin Luther King, Jr. Drive. Mayor Jones advised that there had been one there previously, but it had been paved over.

Jon Bickford moved to approve placing speed bumps on College, Berkley and Martin Luther King, Jr. Drive as recommended by the City Administrator. Dave McCorquodale seconded the motion.

Discussion: Rebecca Huss asked for a follow up in six to nine months to advise whether the speed bumps are working.

The motion carried unanimously. (4-0)

11. Consideration and possible action regarding closing of College Street, McCown Street, Maiden Street, Caroline Street, and John A. Butler Street from September 18 – September 19, 2015 from 5 p.m. to 11 p.m. during the Historic Wine & Music Festival.

Shannon Reid, presented the information to City Council for the Historic Wine & Music Festival. Mayor Jones advised that this same request has been approved for the last ten years.

Jon Bickford moved to accept the closing of College Street, McCown Street, Maiden Street, Caroline Street, and John A. Butler Street from September 18 – September 19, 2015 from 5 p.m. to 11 p.m. during the Historic Wine & Music Festival. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

### **EXECUTIVE SESSION:**

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas. (No 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.

### **ADJOURNMENT**

Jon Bickford moved to adjourn the meeting at 7:05 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)



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

Date Approved: 08/25/15

*Kirk Jones*

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Mayor Kirk Jones

