

MINUTES OF REGULAR MEETING

June 9, 2015

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Pro Tem 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
	John Champagne	Position # 2
	T.J. Wilkerson	Position # 3
	Rebecca Huss	Position # 4
	Dave McCorquodale	Position # 5

Absent:None

Also Present:	Jack Yates	City Administrator
	Larry Foerster	City Attorney

INVOCATION

T.J. Wilkerson, 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.

Ike Fluellen - candidate for Constable for Precinct 1, introduced himself and gave an overview of his qualifications and experience. Mr. Fluellen advised that if elected he would be a full time Constable.

Sonya Clover - commented that Cedar Brake Park needs help very badly. Mrs. Clover advised that five years ago the City unanimously agreed that five bronze statues were to be placed in the Park. Mrs. Clover said that Mr. Stewart is standing there alone, and said that the pioneer woman statue was ready to go to the foundry. Mrs. Clover stated that they needed \$12,500 to send the statue to the foundry, and then another \$12,500 to bring it home. They knew this was going to be a big project, and if they could get one done a year, they would be very happy. They had a dinner at the Cozy Supper Club where 100 percent of the proceeds went to Cedar Brake Park and they

made several thousand dollars. Mrs. Clover advised that the next fund raiser would be a style show on June 27 at The Walden Country Club, which will feature the eight boutique shops of Montgomery. Tickets will be \$30 and will include the meal, there will be door prizes and a lot of fun. Mrs. Clover asked everyone to please try and help, if they can.

CONSENT AGENDA:

1. Matters related to the approval of minutes for the public hearing and regular meeting held on May 26, 2015.

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

Discussion: Dave McCorquodale stated that the minutes were extremely thorough and asked if they took a lot of time to prepare. Ms. Hensley advised that it did take some time, but she felt the information was very important. John Champagne said the minutes were wonderful. Rebecca Huss stated that it was much easier to look back and see what was said, and she appreciated it.

The motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

2. Presentation and possible discussion regarding Fats, Oils, Grease and Wipes in the sanitary sewer collection system.

Rhonda Trow, PR Manager with the San Jacinto River Authority made the presentation to City Council. Ms. Trow advised that this campaign was to educate people on what should and should not be put into wastewater systems. Ms. Trow introduced Patty Potty (Michelle Guidry) who is the spokesperson for the campaign. Patty Potty made a presentation to City Council and asked everyone to dispose of their trash properly.

Mr. Ed Shackelford, City Engineer, asked if there were inserts that could be put in the City's water/sewer bills. Ms. Trow advised they are available.

Mayor Jones thanked Ms. Trow for coming to the meeting. Mayor Jones said if the disposable wipes are flushed down the toilet it causes problems at the lift stations, which are very expensive to repair.

3. Consideration and possible action on variances for Hills of Town Creek, Phase 2, 3, 4 and 5:
 - a. The side setback requirement and the minimum lot width/area requirement
 - b. The street centerline radii of 100'

Levi Love, engineer for the project, was present with Matt Childers with Style Craft. Mr. Love advised that their development was on the west side of town, next to the apartments by the high school. Mr. Love stated that they are presenting four sections in the preliminary plat. The Hills of Town Creek Section One is already in place, which includes

the apartments, and they have detention provided in the earlier plat, and the beginning of some of the roadway in Section One.

Mr. Love said that this section is for single family residential lots with variances being requested regarding lot size, with the compensating green space. Mr. Love advised that one greenspace will serve as a buffer to Lone Star Parkway. Mr. Love stated that the greenspace will be managed by the POA to make sure that these areas remain green and landscaped.

Mr. Love noted that the other variance that they have requested was the radii of the streets. Currently the ordinance requires 300 feet. Mr. Love advised that these would be internal streets, and Montgomery County's requirement is only 50 feet. Mr. Love said that they liked the curvy street appearance instead of a grid look. Mr. Love said that they would be including sidewalks, and would not be asking for any variance on that.

Mr. Love advised that the reason that they need the variances in this area is they are already next to a higher density area, the apartments, and this makes sense as a complimentary step.

John Champagne asked about the range of square footage for the homes. Mr. Childers advised that they would range from approximately 1,600 to 3,200 square feet (heated), plus a two car attached garage, with prices ranging from \$220,000 to \$350,000.

Mayor Jones asked if this project was in lieu of the second phase of the apartments. Mr. Love advised that it was not.

Mr. Love stated that there was a deal with Chris Cheatham, who is the owner of the property, to work with the school and TxDOT to get a traffic light. Mr. Cheatham committed to get the road all the way through to Lone Star Parkway, which is meant to be their east movement. Their long term plan is for people to come down and turn left onto Emma's Way, come around to the light for a protected left turn to SH105. In order for the school to get the turn signal light, they committed to punch the street all the way through.

The average lot area is 7,600 square feet and the ordinance calls for 9,000 square feet. Dave McCorquodale asked what the percentage of lots that did not meet the required size. Mr. Love advised that he guessed that 60-70 percent of the lots were under 9,000 square feet. Mr. Love introduced Mr. Childers. His company is a family owned business based out of Bryan College Station, and they mainly do business with Brenham, Willis, and Montgomery. Mr. Childers presented a video of a community in Brenham that is a similar development in all ways showing what their intent is for this project.

Mayor Jones said that it looked like a vast majority of the homes back up to greenspace instead of neighbors. Mr. Childers advised that one of their goals was to decrease the amount of back yards facing another back yard.

John Champagne stated that with the prices that they quoted, the cost would be about \$138 per square foot. Mr. Childers said that he thought it was approximately \$125 to \$130 per square foot, but he had not run the numbers yet. John Champagne said that the entry level homes would probably run \$110,000. Mr. Childers said that he could not give an exact

amount. Mayor Jones said that he assumed they were not having trouble selling the homes. Mr. Childers said that their biggest problem was having lots available and tradesman available. John Champagne said that he thought the homes looked very nice. His only question was if the amenities and the type of homes that they are going to build are such that the cost per square foot for the developer's cost, that they have a quality home. Mr. Childers stated that the amenities for the homes would have all granite finish, updated landscaping packages to include front and back yards, sodded and irrigated, development fencing that is capped, trimmed and stained.

John Champagne asked how involved they were with the HOA. Mr. Childers advised that they manage the HOA until it is 95 percent occupied.

Dave McCorquodale asked whether they had thought about entrance signage and a name for the community. Mr. Childers said that from a branding standpoint they had yet to decide that information. Dave McCorquodale said that a finished side of the fence facing Lone Star Parkway would make a nice appearance and say a whole lot about the quality of the neighborhood inside the fence. Mr. Childers said that on their developments, their entire perimeter fence has the finished facing the exterior. The fence will be six foot cedar, capped with steel posts.

Mayor Jones said that the last time that they had come to Council there had been some concerns about egress, which they obviously solved by Emma's Way having the traffic light, and asked what the future plans were for Emma's Way connecting and going through. Mr. Love advised that Mr. Cheatham's commitment to TxDOT and the school, is that the road will connect to Lone Star Parkway, but could connect somewhere else, so they are still going to be a good community partner when making the decision where to go through. Mr. Cheatham said that there has been a discussion about going east on Emma's Way, and follow the property line from the school to Emma's Way, but they have not been able to get a commitment to do that.

Jon Bickford stated that there was a note from Rusty Griffith, Montgomery Fire, and asked whether his issues had been addressed. Mr. Yates advised that they were addressed during the Planning and Zoning Commission Meeting. The Planning and Zoning Commission recommended adoption of the variances with the notes from the Fire Department. Jon Bickford asked if the figures incorporate the Fire Marshal's feedback. Mr. Love advised that it did, and said that his main comments were on the turn radii. Mr. Bickford advised that there was also the spacing of fire hydrants at 400 feet, vertical distance, and asked if street parking would be allowed. Mr. Love said that street parking would be allowed with the current Montgomery Ordinance, which provides for a wider street, even more so than the County. Mr. Shackelford said that the comments will be incorporated into the plat. Mr. Bickford asked whether the Planning and Zoning approved the plat. Mr. Yates advised that they had approved the plat with the comments.

Dave McCorquodale said that it all comes down to location, because you can't paint an entire City all with one brush. Dave McCorquodale said that he did not feel that this was as out of line. Rebecca Huss stated that she thought it was an elegant solution.

Jon Bickford said that he continued to be challenged by the fact that the City has a 70 foot width building requirement and they continue to have people asking for waivers. Jon

Bickford said either the City needed to get rid of the 70 foot building width requirement or stick to the rule. Jon Bickford said that he understood the reasoning behind the request, but it was frustrating to him that they keep getting the requests for variances.

John Champagne asked what they would estimate to add to the cost, percentage wise, if they complied with the City ordinance regulations. Mr. Childers advised that it would be a 40 percent increase, and the product would not be feasible. This would be measured by the linear feet in the front of the lot 50 feet versus 70 feet. Mr. Love advised that they would be installing storm sewers, which almost doubles the cost.

Mayor Jones advised that the 70 foot requirement was to protect the core of the City, and also made Council stop and ask questions of the developer. John Champagne asked Jon Bickford if he would rather the lot size be a 50 foot versus 70. Jon Bickford said that he thought that the reason for the 70 foot requirement was to make sure that people that had kids had enough room to play. Dave McCorquodale said that he thought that the lots were set at 70 foot because the bulk of the lots in the City were that size. Dave McCorquodale said he thought that there should possibly be different size lots for different zones of the City, because different areas have different needs. Jon Bickford stated that the developers know what the requirements are when they purchase the land, so none of it is a surprise.

John Champagne asked when the developer phases out of the project, whether there would be any legal bind on the people that take over the HOA to nullify, modify or lessen the restrictions. Mr. Childers advised that they would have to have 100 percent compliance by every single homeowner to amend anything, which is virtually impossible. John Champagne asked if Mr. Childers was sure. Mr. Childers advised that he was positive, regarding the covenants and restrictions.

Rebecca Huss asked if there would be an issue servicing this development, given the issues they have with water pressure at the apartments. Mr. Shackleford said that this development did not do a feasibility study in advance, so they are recommending that a feasibility study be done. The feasibility study would look at the water pressure at the far end of their subdivision, where the sewage goes to and from this neighborhood into the existing system and what infrastructure downstream may or may not be able to accommodate it. Mr. Shackleford said that it was mentioned during the pre-development meeting that a feasibility study would be needed.

Mr. Shackleford said that they feel the feasibility study is needed to identify what the offsite impact is, and whether the development is so far along that the City would need to do an abbreviated feasibility study just to look at the impact. Mr. Shackleford advised that they would check on the water pressure, because that is a concern.

Dave McCorquodale said that it has been a couple years since they set out the northwest impact fee area, which was along the corridor area and extended along the western area, but he did not know if it extended to this area. Mr. Shackleford said that if the impact study is greater than five years old, it needs to be reviewed and updated. Mayor Jones said that they need to determine if this property falls in that area. Mr. Cheatham said that he was not sure if it was in that area.

Jon Bickford said that the City had discussed about four months ago about the low water pressure at the apartments, and they discussed something such as a water tower. Mr. Shackelford stated that at the last Council Meeting, they authorized the process for the comprehensive water plan. Jon Bickford asked whether this development could put the City over the limit. Mr. Shackelford said that it was hard for him to answer that question at this point.

Mr. Love said that a lot of the infrastructure is there. Mr. Love said that they had discussions about the waterline, and at one time they were told that the line was coming from another direction on Lone Star Parkway. Mr. Love said that in the development agreement, the City paid to upsize from an 8" water line to a 12" inch water line, which will one day loop into the system, as required by the agreement. Mr. Love said that he totally supported Mr. Shackelford to make sure that they work together in partnership to put all the pieces together.

Jon Bickford confirmed that there would be 100 homes in this section. Mr. Love said that was correct. Rebecca Huss asked if there would be 20 homes in each of the sections in this development and would the variances cover only those homes. Mr. Love said that they were only asking for the variances for this parcel of land in Sections 2, 3, 4 and 5.

Dave McCorquodale said that he did not have an issue with the variances and the development makes sense.

Dave McCorquodale moved to approve the variance requests for the Hills of Town Creek, Phase 2, 3, 4 and 5, regarding side setback requirements and the minimum lot width/area requirement, and street centerline radii of 100 feet.

Rebecca Huss asked if they could add that the motion is pending the resolution of the Feasibility Study issue. Dave McCorquodale said that he did not mind including the Feasibility Study in the motion.

Dave McCorquodale amended his motion to include the completion of the Feasibility Study.

Mr. Shackelford asked that the motion also include the Fire Marshal's recommendations. Mr. Yates advised that the recommendations needed to be included in the motion. Mr. Yates also advised that it was the Fire Chief and not the Fire Marshal.

Dave McCorquodale amended his motion, and moved to approve the variance requests for the Hills of Town Creek, Phase 2, 3, 4 and 5, regarding side setback requirements and the minimum lot width/area requirement, and street centerline radii of 100 feet; including the completion of the Feasibility Study, and the Fire Chief's recommendations, as approved by the Planning and Zoning Commission. John Champagne seconded the motion.

Discussion: Dave McCorquodale stated for clarification in layman's terms, that he had no issues at all with the variances, as long as they figure out the water and sewer supply matters.

The motion carried with 4-Aye votes, and 1-Nay by Jon Bickford. (4-1)

4. Consideration and possible action on variances for Lake Creek Village, Section Two:

- a. The side yard setback requirement
- b. The minimum lot width/area requirement

Mr. Mike Glezman, Glezman Survey, made the presentation. Mr. Glezman advised that this was Section Two of Lake Creek Village. Mr. Glezman advised that the lots are going to be larger than Section One, each building line width will be 55 feet. He is requesting that the minimum lot width of the smallest lots to be 60 foot. Mr. Shackleford advised that the roads have been built for Section One, and advised that the Fire Chief had the same recommendations that were mentioned in the previous agenda item. Mr. Glezman stated that they definitely complied with the recommendations by the Fire Chief.

Dave McCorquodale asked at what point they will begin to close on lots. Mr. LaFevre advised that all the lots in Section Four and Section One are committed to be sold, and he is wanting to finish Section Two.

Jon Bickford asked to clarify that the request is for all the lots to be reduced. Mr. LaFevre said that it is an extension of Section One, where the lots were 55 feet by 120 feet, and these are typically 60 feet by 120 feet. Mr. LaFevre advised that the Planning and Zoning Commission had approved the lot size.

Dave McCorquodale asked the City Attorney if there was any way for someone to go back and amend a lot size on a plat when City Council approves the variance. Mr. Foerster stated that in order for them to amend a plat, it would require them to come back to City Council, in addition to conducting a public hearing notifying all the property owners within 200 feet of any replatted area.

Mr. Shackleford advised that during the Planning and Zoning Commission Meeting Mr. LaFevre committed to donating some additional land to Fernland Park to help offset any shortfalls within the development of the greenspace. Mr. LaFevre state they had donated approximately ten acres, with the additional acreage being 1.2 acres that is adjacent to the Park.

Mayor Jones asked what the minimum lot size. Mr. Glezman stated that the smallest size lot that they have is 60 foot wide, and 7,200 square feet, with the houses ranging 1,600 to 2,200 square feet, depending on the lot size.

Rebecca Huss moved to approve the preliminary plat with the variances for Lake Creek Village, Section Two, to include the comments from the Fire Chief. Dave McCorquodale seconded the motion.

Discussion: John Champagne stated that the motion would identify the lot size going to a minimum of 55 feet.

Rebecca Huss stated that was correct, the motion was for the materials as they were presented to City Council tonight. Jon Bickford said the property was platted as patio homes in the very beginning. Mayor Jones stated that was how Section One was platted.

The motion carried unanimously. (5-0)

5. Consideration and possible action on the Final Plat for Buffalo Springs Shopping Center, Phase I.

Mr. Shackelford said that David Strauss was present. Mr. Shackelford stated that the variances for the plat had been addressed at the last City Council Meeting. Mr. Shackelford advised that the Planning and Zoning Commission had approved the plans. John Champagne asked if Mr. Shackelford agreed with the Planning and Zoning Commission findings. Mr. Shackelford said that he did. He also stated that the one question, which is related to another tract, was that the utilities are going to be extended to serve the Kroger/Milestone site. Mr. Shackelford said that his recommendation would be to take the utilities that Milestone is extending and put them in easements outside the State right-of-way. If the utilities are in the State right-of-way in the future, and the State widens the road, it would be the City's expense to relocate the utilities. After review of the plat information, Mr. Shackelford advised that the utilities were located outside the State right-of-way.

John Champagne moved to approve the Final Plat for Buffalo Springs Shopping Center, Phase I. Jon Bickford seconded the motion.

Discussion: Dave McCorquodale asked if things like the names of streets, such as, "Milestone Boulevard" are set in stone, and said that surely there was a more historic name they could come up with. Mr. Shackelford said that he thought they could adjust the street names at a later date.

The motion carried unanimously. (5-0)

6. Consideration and possible action regarding Montgomery Summit Business Park sidewalk variance request.

Mr. Shackelford advised that the City received a letter from the developer, Mr. Ogorchock, asking to eliminate the sidewalk requirement for the development on FM 1097. Mr. Shackelford advised that his recommendation was to request the developer to take a percentage of the funds that he would have used to construct the required sidewalk and put it in escrow with the City to either build a sidewalk at a future date, or after a certain period of time those funds could be used by the City to enhance pedestrian mobility in other parts of the City.

Rebecca Huss stated that their land abuts the City's extra-territorial jurisdiction (ETJ), with Conroe on the other side, and Conroe is never going to let Montgomery have the land in their ETJ, and they do not require sidewalks. They would be building the sidewalks that it is unlikely that anyone will run across FM 1097 to use it, and would be a colossal waste of money.

Jon Bickford asked about the grant project that the City was pursuing for sidewalks. Shannan Reid advised that FM1097 was never included in the sidewalk project, it was only for the historic district, and were for upgrades.

Jon Bickford asked why they would not put the entire amount that they would have spent on the sidewalk and put those funds in escrow, so they could grow. Mr. Shackelford advised that it would be a percentage of the amount they would have spent on the sidewalk.

Mr. Yates said that he had come up with a percentage and his logic was to give the developer an incentive not to have a sidewalk, and the City Council would have the incentive of taking 60-70 percent of the funds rather than build the sidewalk. Jon Bickford said that if he was a developer and knew that he had to build a sidewalk at \$100,000, he would be happy to ask for a variance and pay \$90,000 to make that go away. Jon Bickford said that 60 percent was like a Christmas present. Mr. Yates said that maybe 80 - 90 percent would be better.

Mayor Jones asked Mr. Love what the figure was that the developer had discussed. Mr. Love stated that they did not discuss a precise number. Mr. Love said they had discussed with the Planning and Zoning Commission using the 5/8 of the cost, but they did not have a solid number.

Mr. Shackelford said that the distance that they were talking about for the sidewalk was 2,000 feet long and five feet wide. Dave McCorquodale said he saw something about them being eight feet wide. Mayor Jones advised that was what the ordinance required. Jon Bickford said if the ordinance calls for an eight foot wide sidewalk that is what they need to use. Mr. Shackelford said with a sidewalk that is 2,000 feet long and eight feet wide times \$5.00 per square foot would be \$80,000. Jon Bickford said that he would be happy to take 80 percent of that and put it in the bank as a sidewalk fund. Jon Bickford said he felt that it should be something reasonable. Mayor Jones said that 90 percent would not be a lot of incentive, and he felt that it should be lower.

John Champagne moved to grant the variance for the sidewalk, and request an escrow amount of 70 percent of the amount that it would take to build the sidewalk, which he believed was \$80,000, which would equal \$56,000 for future mobility. Rebecca Huss seconded the motion.

Discussion: Rebecca Huss asked whether an easement had been provided on the plat for the sidewalk. Mr. Love said that he did not know. Rebecca Huss asked if the easement should be put in now. Mr. Shackelford said that some of it would depend on whether the owners retain ownership of all the property. Rebecca Huss asked if they should ask for the easement as part of granting the variance. Mr. Shackelford said yes it would be easier to acquire the property now versus when it changed hands. John Champagne asked if the easement went away if the sidewalk was not built. Mr. Love stated that the ordinance did not address where the sidewalk is in a commercial development.

The motion carried unanimously. (5-0)

7. Consideration and possible action regarding authorities granted to the City's Investment Representatives.

Mr. Yates advised that this resolution came from the City's investment bankers that handle the City's investments, and it designates Katherine Turner and Mark Burton the authority to sign checks, and make deposits, etc. as related to investments.

Jon Bickford moved to designate Katherine Turner and Mark Burton as authorized signors on checks, and to make deposits, etc. as related to investments, as presented by the City Administrator. Dave McCorquodale seconded the motion, the motion carried with a vote of 4-Ayes. John Champagne had stepped out of the meeting for a moment and did not vote.

8. Consideration and possible action regarding a request for road blocks for the Freedom Festival Parade submitted by the Montgomery Area Chamber of Commerce.

Shannon Reid presented the information to City Council. Ms. Reid advised that the proposed parade route will be the same as the one they used for the Christmas Parade and last year's Freedom Festival Parade. Per the request of the Chief of Police, the parade spills out into Buffalo Springs because of the congestion and length of the parade. Since July 4, 2015 falls on the first Saturday of the month, the event will end at 7 p.m. rather than 9 p.m. to allow people to go and see fireworks at the lake.

Ms. Reid advised that they are focusing on getting the road blocks in the T-shape from College Street, between Liberty and Maiden and down to about Jacobs property. Ms. Reid advise that route kept people safe and traffic flowing. Ms. Reid said that she expected to see Council at the parade and she needed volunteers for the dunking booth.

Jon Bickford asked Chief Napolitano about the route, and if the line would go from Clepper Elementary School and down to the restaurant. He wanted to make sure that they did a good job of keeping people on the side of the road, so that people that live in that area can get in and out. Chief Napolitano advised that they were going to do traffic control the exact same way as last time. Mayor Jones advised that there would not be any trailers in the parade this year. Jon Bickford said that there will be hordes of people and golf carts.

Jon Bickford moved to accept the road closures as proposed to be monitored by the Chief of Police. Jon Bickford also stated that he would serve in the dunking booth and any other function at the event that Ms. Reid needed help with. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding enforcement of Abandoned Vehicle Ordinance of the City.

Mr. Yates made the presentation to City Council. Mr. Yates advised that he had met with Officer Tim Bauer, who has attended Code Enforcement training. Mr. Yates presented a spreadsheet showing the process for enforcement of abandoned vehicles, including notice and actions to be taken.

Jon Bickford asked why they are waiting 60 days to speak to the owner of the vehicle after notice has already been given to remove the vehicle. Mr. Yates said that after the violator receives the letter giving them ten days' notice, there is no more discussion.

Mayor Jones asked if the City picks up the vehicle what will they do with the vehicle. Mr. Yates advised that the City can either sell the vehicle or have an auction to sell the vehicle after they declare it surplus property. Mayor Jones asked if there would have to be a title for the vehicle. Mr. Yates said that they would have to work with the State of Texas to get the title.

Mr. Foerster said that the City's section of the Code regarding junk vehicles is an older ordinance that he has not reviewed, and there have been changes to the Texas Transportation Code regarding what a municipality can do regarding violations and enforcement of junk vehicles. Mr. Foerster said that he did not think that there had been any substantial change in the law, but nonetheless there has been changes. Mr. Foerster said that it has been his experience to have a company pick up the vehicle, put it in storage and it is out of the City's hands. They let the towing company pick up the vehicle and be responsible for notification, and if the person does not respond to their notice, they can sell the vehicle with a substitute title. The City would be out of the business of buying and selling vehicles.

Mr. Foerster said that he was not consulted on this matter so he could not really speak to this process. Mr. Foerster said that one of the other options that some of his other cities do is they issue a citation for violation of the ordinance and the person has to appear in municipal court. This would give the person the opportunity to appear in municipal court and explain why they left the vehicle parked there and whether it is still operable.

Mr. Foerster said that their process typically has a notice of violation of the ordinance being sent to the owner, and give them an opportunity to go either to the Police Chief or the City Secretary and advise what the problem is. If they do not get a response from the owner, they may then issue a citation to have them appear in municipal court for possible prosecution of a Class C misdemeanor.

Rebecca Huss said that she would be very concerned assuming that people that can't afford to get their vehicles fixed would be most affected by this and any fines would really hurt them the most. You could start impacting people that might have lost their jobs and need that car in order to get and/or save money up to get a job. Rebecca Huss said that she felt Mr. Forester's idea might be something kinder and gentler if they ended up in the situation. Rather than seeing yourself on the news versus a single parent that had their vehicle towed away the day before they raised \$100 to get the alternator fixed. Having their vehicle towed before they had an opportunity to speak to the City Secretary who could suggest another alternative, or working out a plan that everyone knew about rather than having a towing company take the vehicle.

Mr. Foerster said that the 60 day notice is not an unreasonable amount of time. Rebecca Huss said that this would hurt people disproportionately that are poor and might actually need more time. Mr. Yates said that the type of vehicles that they are talking about did not just need an alternator or battery. Mayor Jones said they had vehicles that have been

there 20 plus years, but he did understand the point being made. Mr. Foerster said that someone can always appeal a matter to the City Council to request a variance to their circumstances. Rebecca Huss said that she felt that it might be easier if they approached the City Secretary first instead of dealing with a municipal judge, because she did not want to see fees piled on top of fees, where it gets to be an onerous situation for people that have a real hardship, so they would know that there is an option. Mr. Yates said that perhaps one way would be to go through the entire process up to the point of the hearing with the municipal court judge, and writing a ticket at that point. Dave McCorquodale said vehicles that do not have windshields or windows, tires or wheels and asked if they could not help them by saying that they could scrap the vehicle and here is a name of someone that will come and pick up the vehicle. That way the City gets cleaned up and the owner gets some cash in their pocket. Mr. Yates said that if it was a matter of an alternator or battery he would first contact people in the community to see if they could raise the money to help the person before he would tow the vehicle.

John Champagne moved to accept the flow chart based on compliance with all legal requirements and good judgement. Jon Bickford seconded the motion.

Discussion: Rebecca Huss said that she was all for good judgement. Mr. Foerster asked if City Council wanted him to review the current junk vehicle and compare it with the statute and come back with a recommendation. Mr. Foerster said that he did not know if they needed to update it, but he had not had time to look at it. John Champagne said that his motion was an attempt to include that recommendation and all legal ramifications and guidelines. Jon Bickford said that Mr. Foerster might need to look at the ordinance. Mr. Foerster said that he did look at the information today and did not have a problem with it, and that it would provide due process. Mr. Foerster said that he may have a problem with the language of the old ordinance compared to some of the changes made in the statute. Jon Bickford said that while it was not an action item, it was certainly something the City Attorney could look at. Mr. Foerster advised that he would review the information.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding enforcement of Dilapidated Structures Ordinance of the City.

Mr. Yates presented the flow chart to City Council that identified 8 buildings that had been previously started, but not completed. Mr. Yates advised that all the information will be reviewed by the City Attorney. Mr. Yates said that he will be contacting the MEDC to ask for funds for demolition of the buildings. Mr. Yates said that he will have a conversation with the owner regarding the process and options for taking down the building.

Jon Bickford asked if \$45,000 would take care of all the houses. Mayor Jones said there are some cases where it does not have a house, but junk on the property. Mr. Yates advised that would be different, the owner would be issued a letter by the code enforcement officer that the property is to be cleaned. The City could either issue a citation or clean the property and place a lien on the property for the cost.

Mayor Jones said that Mr. Yates' name was all over the flow chart and said that he was going to be busy, and asked if that was what he needed to be doing. Mr. Yates said he did not know who else to assign the tasks to. John Champagne said that they need to come up with someone. Mr. Foerster said that it could be worded the City Administrator or his designee, to select someone on a case by case basis. John Champagne said that the process is lined out, so the person could follow the steps. Mr. Yates said that he could get the building inspector to do the inspections, which he could finish in half a day for a couple hundred dollars. John Champagne said he would like to see Mr. Yates initiate the process and then step out of the matter. Mr. Yates said he appreciated that.

Mr. Foerster said that what is contemplated here with the building removal process is found in Chapter 54 of the Health and Safety Code. This has to do with a Building and Standards Commission that was created to hear the evidence and make a determination as to whether the building is substandard, unsafe or a public nuisance, and if it is, what action should be taken either by the property owner, or by the City if the property owner fails to do so. Mr. Foerster said he did not know if the City had ever designated a Building and Standards Commission. Mr. Yates advised that the City Council has been designated as the Building and Standards Commission.

Rebecca Huss asked if Mr. Yates' method of having the property owners sign the paperwork allowing the City to remove the house negated the need to go through the process with the Commission. Mr. Foerster said that was correct. Mr. Foerster said that he has seen a form that he believed Mr. Fowler used, that was a recordable form that the owner could sign and have notarized, with the legal description of the property, and then record it with Montgomery County.

Mr. Yates stated that he mainly wanted to let City Council know what his intent was with the project and to see if City Council agreed with the process. Mr. Yates stated that the project should be complete in April 2016. Mayor Jones said that Mr. Yates was going to clean up everything and be done in a hurry, and he liked that.

Mr. Foerster advised if there was a need for the Commission to act, they would be required to post a notice, serve notice on any property owner, lien holder, and mortgage company so that those people are notified of the action. Mr. Foerster said then you have a hearing with a presentation, such as photographs showing the condition of the property. You might have the Building Inspector report on building code and safety issues, and maybe the local Fire Marshal who might have concerns about the danger of the building. This would establish evidence of the substandard, unsafe, fire hazard condition of the building. Sometimes the property owner shows up and asks for time to correct the problem. But if they don't show up or correct the matter, the order would allow the City to step in and demolish the structure without another hearing or further action. Mr. Yates said that he believed the structures were unoccupied. Mayor Jones said that there were a couple that were still occupied.

11. Consideration and possible action on proposal from Blazer Building, Inc. regarding City Participation in removal of medians from Flagship Boulevard.

Mr. Fleming reviewed the information discussed previously regarding the median removal, and said the question was asked if the City wanted to partner with Blazer and take out some additional sections of the median with hopes that they improve the turning radii for the trucks, and then come back and fix the curb area.

Mr. Fleming said that they had also discussed that the MEDC had previously committed \$40,000 to assist in the endeavor. Mr. Fleming said that Council had identified some areas that they would like to have removed, and asked them to come back with a hard cost. Mr. Fleming advised that the proposal that they received from Blazer breaks out to be about \$14.00 per square foot to remove the medians and replace the pavement. When you figure their sections and the proposed areas for the City, it is almost a 50/50 split, with the total cost being \$39,000, which is not inclusive of incidentals, traffic control and stripping, etc. Mr. Fleming said that the good news is that he thought they could do it with no additional cost to the City. Mr. Fleming advised that the City's cost would include the curb repair, but it is minor. Mr. Fleming said that with Council's permission he will move forward and contact Blazer this week to get started.

John Champagne moved to authorize the implementation of removing the median, along with Blazer Building, Inc., in the amount as stated tonight. Dave McCorquodale seconded the motion.

Discussion: Jon Bickford asked to confirm that the City's estimated cost would be \$19,500, excluding incidentals. Mr. Fleming advised that was correct. Rebecca Huss confirmed that the median locations would be as previously presented and designated in green and yellow. Mayor Jones said that was correct.

The motion carried unanimously. (5-0)

12. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS REPEALING CITY ORDINANCE 2004-08 AND REPLACING CHAPTER 66, "SIGNS", OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; DEFINING WORDS AND PHRASES; PROVIDING REGULATIONS FOR THE CONSTRUCTION, PLACEMENT, EXISTENCE AND USE OF SIGNS AND BILLBOARDS WITHIN THE CITY; PROVIDING A PERMITTING PROCESS FOR THE PLACEMENT OF SIGNS AND BILLBOARDS WITHIN THE CITY; PROVIDING CRITERIA FOR THE MEASUREMENT OF SIGN, CALCULATION OF AREA AND MAINTENANCE OF SIGNS WITHIN THE CITY; DESIGNATING THE TYPES OF SIGNS AND BILLBOARDS PERMITTED WITHIN THE CITY; PERMITTING THE GRANTING OF VARIANCES; PROVIDING CRIMINAL PENALTIES OF UP TO \$500.00 FOR VIOLATION OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT ANY ORDINANCE IN CONFLICT HEREWITH IS EXPRESSLY REPEALED; PROVIDING A SAVINGS CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR PUBLICATION, EFFECTIVE DATE AND RELATED PROVISIONS.

Mr. Yates stated that when he first came to the City, he was asked by the Planning and Zoning Commission to look at the Sign Ordinance. Rebecca Huss said that they had talked

about the signs several times, and asked if this was about the monument signs to make it look neater, with no more signs on poles. Mr. Yates advised that was correct.

Mr. Yates reviewed the table on page 13, stating that he needed to add C.B. Stewart Road to the Non-Residential street listing. Mr. Yates said the Amegy Bank sign was the model sign for the ordinance. Mr. Yates stated that the other sign is the shopping center sign that is a model, is across the street from the funeral home, and by Brookshire Brothers.

Mayor Jones said that the old ordinance the sign size was based on the length of the frontage on the road, and asked what the size of the sign would be based on with this ordinance. Mr. Yates said that you can have a sign every 125 feet. Mr. Yates said this is based on Sugarland's ordinance.

Jon Bickford asked to confirm that no commercial signs on SH105 could be taller than ten feet. Mr. Yates said that was correct. Jon Bickford said that was awesome. Jon Bickford asked about signs that are already there that are taller than ten feet. Mr. Yates said that they would be grandfathered. Jon Bickford said if they did any repair work on the signs, then they would have to conform. Mr. Yates said that was correct.

After discussion, the following changes were agreed to be made to the ordinance:

- Page 8 – change curb line to “edge of pavement”
- Page 9, Item 4(b) – change 50 feet to 64 feet
- Page 10, Item 5(b) – 50 feet to 64 feet, and change “sect” to feet
- Page 11, Item 7 – Political Signs – Mr. Foerster advised that it was not legal to place a time limit on political signs being placed out. The City Attorney will work on the language. Mr. Foerster advised that a City may not prohibit political signs on private property, or require fees, or restrict the size of the sign based solely on the fact that it is a political sign. You cannot distinguish a political sign from a commercial sign, you have to treat all signs equal. You cannot impose a charge for the removal of the sign that is greater than the removal of other regulated signs. Mr. Foerster proposed that Council allow him to go back and work on the language for this item to make sure that they are in compliance.
- Page 11, Item 8 – add “public” and remove “city” right of way
- Page 11, Item 10- add “An “A” frame sign is allowed
- Page 12, Item 13(a) – change 50 feet to 64 feet
- Page 13 – (b)(1) – add “framework” of the sign
- Page 15, Item 7(c) (5) add “other suitable construction material”

Jon Bickford moved to accept the changes as presented and as modified by the comments made by City Council, and Section 7 – Political Signs being addressed by the City Attorney. John Champagne seconded the motion.

Discussion: Mr. Foerster said that he did not know if Patrick Berry, Milestone representative, has had a chance to talk to Mr. Yates about the ordinance. Mr. Foerster said that Mr. Berry had asked him to send him a copy of the current and proposed ordinance. Mr. Yates advised that he had spoken to Mr. Berry, and he was supposed to be here tonight, and he was going to submit a sign permit that did not comply with this

ordinance. John Champagne said that the sign that Mr. Yates is recommending is more in line with the Kroger sign that would be found in the The Woodlands. Mr. Yates said that was correct. Dave McCorquodale said that point of this ordinance is to get ready for future signage. Mayor Jones said that City Council's approval is also for the City Attorney's future language. Mr. Foerster said that he would stay as close as he can to the current language.

The motion carried unanimously. (5-0)

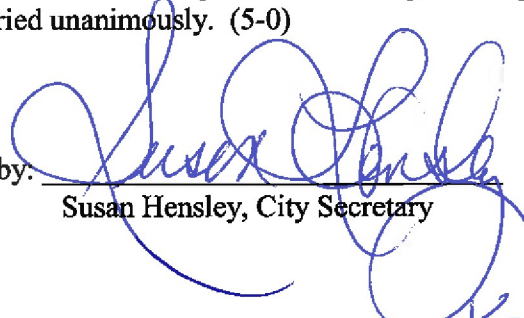
EXECUTIVE SESSION:

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

ADJOURNMENT

T.J. Wilkerson moved to adjourn the meeting at 8:40 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Submitted by:


Susan Hensley, City Secretary

Date Approved: 06/23/15



Mayor Kirk Jones

